



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Agenda

Ordinary Council Meeting Thursday 25 October 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 6.00pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of the Minutes of the Ordinary and Council Meetings held Tuesday 25 September 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 25 September 2012 (ECM 56972912).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 25 September 2012 (ECM 56919438).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR-CM] 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

16 February 2010

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne

Cr K Skinner

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

Current Status: Workshop conducted on 12 June 2012 and a report on the draft Local Environmental Plan in this Business Paper will address these issues.

17 April 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

212

**Cr P Youngblutt
Cr K Milne**

RESOLVED that:

.....

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

Current Status: Meeting conducted with the Chief Executive Officer of Destination Tweed and Council will continue to work with Destination Tweed in relation to the operation of markets.

26 June 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

343

**Cr J van Lieshout
Cr P Youngblutt**

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

Current Status: Following the June Meeting, the owner has submitted additional details to address previous concerns and a further report will be submitted to Council on an amended application.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

364

Cr K Skinner
Cr W Polglase

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

Current Status: A Workshop has been held and Council continues to negotiate with the proponent and the Department and a final report will be considered by Council in the forthcoming months.

ORDERS OF THE DAY

74 [NOM-Cr D Holdom] Promotional Banners Concept

NOTICE OF MOTION:

418

Cr D Holdom
Cr K Skinner

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

Current Status: Investigations currently underway.

21 August 2012

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

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

542

Cr D Holdom
Cr J van Lieshout

RESOLVED that the:

1. Minutes of the Equal Access Advisory Committee Meeting held Wednesday 20 June 2012 be received and noted; and
-

2. Director's recommendations be adopted as follows:

General Business Items

1. Regional forum for Equal Access Committees, 7 May

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

Current Status: Appropriate induction and training to be held on Monday 26 November 2012 at a time to be advised.

MAYORAL MINUTE

3 [MM-CM] Mayoral Minute - Period from 8 September to 5 October 2012

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

COMMITTEE MEETINGS

Attended by the Mayor

- 21 Sept 2012 - Destination Tweed Board Meeting - Stacks the Law Firm, Wharf Central, Wharf Street, Tweed Heads.
 - 21 Sept 2012 - Margaret Olley Art Centre Steering Committee - Tweed River Art Gallery, 2 Mistral Rd, Murwillumbah (also attended by Warren Polglase as TRAG Foundation President).
-

INVITATIONS:

Attended by the Mayor

- 10 Sept 2012 - Ningbo Agricultural Department visit from China - Robert Quirk's Farm, Duranbah Road, Duranbah.
 - 10 Sept 2012 - Murwillumbah Rotary Club - Greenhills Reception Lounge, River Street, Murwillumbah.
 - 12 Sept 2012 - Occupational Therapy & Disability Services Student Conference, Guest Speaker - Tweed Heads Bowls Club, Wharf Street, Tweed Heads.
 - 12 Sept 2012 - 4CRB Radio Talkback - 4CRB, 8 Stevenson Court, Burleigh Heads, QLD.
 - 12 Sept 2012 - Kids in Community Tweed Shire Awards 2012 - Stars Room, Twin Towns Resort, Tweed Heads.
-

- 13 Sept 2012 - Wollumbin Dreaming Aboriginal Youth Leadership Initiative Reflection Day - South Tweed Sports Club, 4 Minjungbal Drive, Tweed Heads.
- 15 Sept 2012 - Twin Towns & District Garden Club Flower and Garden Expo - Tweed Heads Civic Centre, Brett Street, Tweed Heads.
- 15 Sept 2012 - Stokers Siding, Post-Community Survey Celebration and fund raiser for the Lock the Gate Alliance - Stokers Siding Hall, Dunbible Rd, Stokers Siding.
- 15 Sept 2012 - St Joseph's Church Centennial Celebration - South Tweed Sports Club, 4 Minjungbal Drive, South Tweed.
- 16 Sept 2012 - Robbie Sammel Ovarian Cancer Awareness Walk - Jack Bayliss Park, Marine Parade, Kingscliff.
- 17 Sept 2012 - Murwillumbah Rotary Club - Greenhills Reception Lounge, River Street, Murwillumbah.
- 18 Sept 2012 - Kingscliff Chamber Breakfast - "Packaging the Kingscliff Triathlon for a Longer Stay" - Kingscliff Beach Bowls Club, Marine Parade, Kingscliff.
- 18 Sept 2012 - Paul "HopE" Hopkins Memorial Service - Tyalgum Hall, Coolman St, Tyalgum.
- 19 Sept 2012 - Murwillumbah High School Year 12 Graduation Ceremony - Riverview Street, Murwillumbah.
- 22 Sept 2012 - Banora Point Upgrade, Project Commissioning and Community Day - Wilson Park, Banora Point.
- 22 Sept 2012 - Opening of Baja Mexican Cantina - Baja Cantina, 22 Marine Parade, Kingscliff.
- 24 Sept 2012 - Murwillumbah Rotary Club - Greenhills on Tweed, River Street, Murwillumbah.
- 25 Sept 2012 - Tweed Shire Council's Inaugural Business Breakfast, with Guest Speaker Michael Shuman - Kingscliff Bowls Club, Marine Parade Kingscliff NSW (also attended by Crs Polglase and Byrne).
- 28 Sept 2012 - Tweed Heads Community Men's Shed, Opening Day Barbecue - Recreation Street Park, Tweed Heads.
- 28 Sept 2012 - National Police Remembrance Day Service 2012 - The Showroom, Twin Towns Services Club, Cnr Wharf and Boundary Streets, Tweed Heads.
- 29 Sept 2012 - CabaCreative Carnivale - Cabarita CBD, between Pandanus and Cypress Avenue.
- 29 Sept 2012 - Caldera Artfest 2012 - Murwillumbah Civic Centre auditorium (also attended by Cr Bagnall).

- 03 Oct 2012 - Tweed Shire Council Preview of Mental, the film - Hoyts Cinema, Tweed City, Tweed Heads South (Crs Byrne, Polglase, Milne, Bagnall also attended).
- 5 Oct 2012 - Murwillumbah Chamber of Commerce Breakfast - Greenhills on Tweed, River Street, Murwillumbah.
- 05 Oct 2012 - Opening of the Mental Health Awareness Family Fun Day - Jack Evans Boat Harbour, ANZAC Precinct, Tweed Heads.

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

- 19 Sept 2012 - Tweed River Art Gallery (TRAG) Foundation meeting - TRAG, Mistral Rd, Murwillumbah (attended by Cr Warren Polglase, as Foundation President).

Inability to Attend by or on behalf of the Mayor

- 25 Sept 2012 - Update on the draft NSW Transport Master Plan & info on the development of the Northern Rivers Regional Transport Plan - Lismore City Council Chambers, 43 Oliver Avenue, Goonellabah.
- 30 Sept 2012 - Walk for Solar event - The Pass, Brook Drive, Byron Bay.
- 03 Oct 2012 - Murwillumbah Community Centre Management Committee - Coolamon Centre, Tumbulgum Rd, Murwillumbah.

REQUESTS FOR WORKSHOPS:

Councillors did not request any new workshops in the period from 8 September to 5 October 2012.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

Councillors did not attend any Conferences in the period from 8 September to 5 October 2012.

Information on Conferences to be held

There has been no advice in the period from 8 September to 5 October 2012 of conferences for Councillor consideration.

SIGNING OF DOCUMENTS BY THE MAYOR:

- 20 Sep 2012 - Lease - Australian Volunteer Coast Guard Association - Sutherland Street Kingscliff.
 - 21 Sep 2012 - Variation of Funding Agreement - 3 Brothers - Goorimahbah - Jack Evans Boat Harbour.
-

COUNCIL IMPLICATIONS

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Financial Plan:

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

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

RECOMMENDATION:

That:-

The Mayoral Minute for the period from 8 September to 5 October 2012 be received and noted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

4 [MM-CM] Mayoral Minute - Murwillumbah Festival of Performing Arts

SUBMITTED BY: Cr B Longland, Mayor



Supporting Community Life

SUMMARY OF REPORT:

Discussions were held between the organisers of the Murwillumbah Festival of Performing Arts, Director Community and Natural Resources and myself to discuss funding options for the Festival. The festival celebrated its 81st year in 2012 and attracted a record number of participants (10,587) over a 27 day period in June/July. The festival provides a major economic boost to the Tweed Shire over this period with family / friends / judges / coaches and supporters also attending. This is in addition to its cultural significance to the Tweed.

In the 2012/13 Festivals and Donations funding, the festival organisers made application for, and were successful in obtaining \$2,000. A change in Council's fee structure, together with organisational complications following the recent passing of Arthur Holmes OAM has had an affect on the ongoing financial viability of this festival. In recognition of the economic and cultural benefits that it brings to our community, it is proposed to retrospectively provide additional funding of \$4,500 for this year's festival. The funds are available from the Cultural Development Program. For the 2013 festival, organisers have now been fully appraised of potential funding through the Festivals and Donations policy and will revise their application for assistance accordingly.

RECOMMENDATION:

That Council provides additional funding of \$4,500 for this year's Murwillumbah Festival of Performing Arts from the Cultural Development Program.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The Director Community and Natural Resources has confirmed that funds are available in the 2012/13 Cultural Development Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.3 Maintain and enhance the Tweed lifestyle and environmental qualities as an attraction to business and tourism
- 3.3.1 Establish planning controls that balance the need for urban growth against the protection of agriculture, village character and the environment

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

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

SUBMITTED BY: Director



Civic Leadership

SUMMARY OF REPORT:

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

RECOMMENDATION:

That Council notes the September 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, no Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

No-Legal advice has not been received.

Attachment of Legal Advice-Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.4 Strengthen coordination among Commonwealth and State Governments, their agencies and other service providers and Statutory Authorities to avoid duplication, synchronise service delivery and seek economies of scale
- 1.4.1 Council will perform its functions as required by law and form effective partnerships with State and Commonwealth governments and their agencies to advance the welfare of the Tweed community

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

6 [PR-CM] Compliance Issues - Unauthorised Works in Outdoor Dining Footpath Blister Area at Nos. 60 - 62 Murwillumbah Street, Murwillumbah, Courthouse Hotel

SUBMITTED BY: Development Assessment

FILE NUMBER: DA05/0720



Civic Leadership

SUMMARY OF REPORT:

This report has been prepared to seek Council's direction in taking action in respect of the installation of unauthorised weather protection curtains on the outdoor footpath dining area of the Courthouse Hotel Murwillumbah.

Development consent (DA05/0720) for the outdoor footpath dining area and traffic blister was granted by Council on 27 October 2006. Council has since granted approval to various Section 96 amendments to this consent.

Council has also granted a Footpath Trading approval to the owners of the Hotel to operate outdoor dining in the approved area.

Following a complaint received from a member of the public in mid 2012, Council's Environmental Health Unit officers investigated the site and observed a series of unauthorised weather protection curtains on the outdoor footpath dining area. The officers have requested the owners of the Hotel on a number of occasions to remove these structures.

The officers have also advised the owners that any application under Section 138 of the Roads Act to seek approval of the structures would not be supported for the following grounds:

- The shade screen restricts sight-lines for both motorists and pedestrians, and is therefore considered a public safety risk;
- The shade screen restricts CCTV coverage, and is therefore considered a security and public safety risk; and
- The fixtures do not enhance streetscape appeal, and the excessive shading creates a tunnelling effect along the section of footpath in front of the Hotel.

The owners have advised that they wish to retain the current structures, in a possibly modified form, to enable the coverings to be temporarily retracted in periods of good weather.

The officers still consider that such a modified form would still be unacceptable, and not supported in any future application.

It is therefore recommended that Council take firmer enforcement action in respect of the unauthorised structures by providing a final warning and time period for the removal of the structures, or otherwise be the subject of Penalty Infringement Notices, or face further legal action.

This matter has also been brought to Council as a number of businesses in the Murwillumbah Shopping Centre Precinct are seeking to erect similar weather protection structures in association with their footpath dining areas, and to highlight the need for a more comprehensive policy framework for development with Council's footpath and road reserve areas.

Tweed Shire Council has a statutory responsibility in relation to compliance enforcement. These responsibilities are clearly articulated in the Act. Failure to undertake the necessary compliance in any situation may lead to Council having its powers mitigated by other authorities.

RECOMMENDATION:

That Council, in respect of the unauthorised weather protection structures installed in association with the outdoor footpath dining and road blister area of the Courthouse Hotel, located on the premises Nos. 60-62 Murwillumbah Street, Murwillumbah:

- A. Endorse that the General Manager write to the owners of the premises requiring them to remove the unauthorised structures within a period of 14 days, or otherwise be issued with Penalty Infringement Notices on a daily basis until they are removed ; and**
- B. Supports that the officers bring back a further report to Council on a suggested policy framework for developments within the footpaths and road reserves of the business centres within the Tweed Shire.**

REPORT:

Previous Development and Footpath Trading Approvals

Development consent (DA05/0720) for an outdoor footpath dining area and traffic blister was granted by Council on 27 October 2006 in conjunction with the operations of the Courthouse Hotel, Murwillumbah Street Murwillumbah. Council has since granted approval to various Section 96 amendments to this consent.

A copy of the approved plans of the most recent amended application for this footpath and blister area is provided in Attachment 1 of this report.

Council has also granted a Footpath Trading approval to the owners of the Hotel to operate outdoor dining in the approved area.

Complaint and Council Officer Compliance Action

Following a complaint received from a member of the public in mid 2012, Council's Environmental Health Unit officers investigated the site and observed a series of unauthorised weather protection curtains on the outdoor footpath dining area. The officers have requested the owners of the Hotel on a number of occasions to remove these structures.

Photographs of the unauthorised structures taken by the officers are provided in Attachment 2 of this report.

The officers have also advised the owners that any application under Section 138 of the Roads Act to seek approval of the structures would not be supported for the following grounds:

- The shade screen restricts sight-lines for both motorists and pedestrians, and is therefore considered a public safety risk;
- The shade screen restricts CCTV coverage, and is therefore considered a security and public safety risk; and
- The fixtures do not enhance streetscape appeal, and the excessive shading creates a tunnelling effect along the section of footpath in front of the Hotel.

The structures also contravene the terms of the Footpath Dining Licence Agreement (A09/0003), dated 7 February 2011, part of which states that:

"the licensee must not erect any structures or improvements on the licensed area, including but not limited to: marquees, awnings or other similar structures; or structures fixed in a permanent nature to the footway, without obtaining the prior written approval of the licensor".

Clause 14 and 14(d) of the Footpath Dining Licence Agreement also states:

*"Notwithstanding anything herein contained to the contrary the Licensor may determine this Agreement at any time and without prior notice if any of the following events occur:
.....(d) If the Licensee has erected any structures or improvements in or modified the Licensed Area without obtaining prior written approval of the Licensor, including, but not limited to:*

- *Marquees, awnings or other similar structures; or*
- *Structures fixed in a permanent nature by the footway*
- *Paint or coat fixtures or fittings placed by the Licensor*

Note: Windbreaks are considered to be permanent fixtures under Council's 'Footpath Trading Policy'.

The owners have advised that they wish to retain the current structures, in a possibly modified form, to enable the coverings to be temporarily retracted in periods of good weather.

The officers still consider that such a modified form would still be unacceptable, and would not be supported in any future application.

Recommended Further Enforcement Action

It is therefore recommended that Council take firmer enforcement action in respect of the unauthorised structures by providing a final warning and time period for the removal of the structures, or otherwise be the subject of Penalty Infringement Notices, or further legal action.

Broader Policy Implications

This matter has also been brought to Council as a number of businesses in the Murwillumbah Shopping Centre Precinct are seeking to erect similar weather protection structures in association with their footpath dining areas, and to highlight the need for a more comprehensive policy framework for development with Council's footpath and road reserve areas.

OPTIONS:

1. Council endorses the recommended enforcement action to seek removal of the unauthorised weather protection structures; or
2. Council does not endorse the officers' recommendation and determines an alternative action.

CONCLUSION:

Council's Footpath Trading Policy clearly discourages those structures within outdoor dining areas which are likely to impede the safety and impact upon the visual amenity of the footpath areas within existing business centres. Direction is being sought from Council to provide both an interim policy position on development with Council road reserves and footpath, and to endorse a comprehensive review of Council policy actions in these areas.

COUNCIL IMPLICATIONS:

a. Policy:

This compliance issue has highlighted the need for a comprehensive policy review of the planning and road safety aspects of uses and structures within the footpath and road reserve areas of Council's business centres.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Costs could be incurred by Council should there be the need to take legal action to address the non-compliance.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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).

Attachment 1. Copy of approved plans of development consent (DA05/0720) for the outdoor footpath dining area and traffic blister granted by Council on 27 October 2006. (ECM 57218174)

Attachment 2. Photographs of unauthorised weather protection structures. (ECM 57218185)

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7 [PR-CM] Draft Development Control Plan (DCP) Section A1 - Residential and Tourist Development Code

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/A1



Supporting Community Life

SUMMARY OF REPORT:

The "*Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Dwelling Houses, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts*" was first adopted by Council on 23 April 2008. A review of this document has been ongoing over the last 24 months.

Low scale residential development is the most common form of development within the Tweed Shire, and has the potential to significantly impact on the character of its various areas of settlement. In order to ensure that amendments to the house development code result in the forms of housing that are appropriate to the character of the Tweed and meet the expectations of the Tweed community, extensive consultation has been undertaken. This involved the preparation of six discussion papers which explained emerging issues with housing and offered a range of options for amending the DCP Section A1.

The feedback received through this consultation process has informed the preparation of the draft revised *Development Control Plan Section A1 - Residential and Tourist Code - Part A - Dwelling Houses, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development*.

This report provides a summary of the consultation to date, key changes to the structure and content of the draft DCP Section A1 and seeks Council's endorsement to place the draft DCP Section A1 Parts A and B on public exhibition in accordance with Sections 18 and 19 of the Environmental Planning and Assessment Regulation 2000.

RECOMMENDATION:

That Council endorse:

- 1. The draft *Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Single Dwellings, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development and Part B – Town Houses and Row Houses* be placed on public exhibition for a minimum period of 28 days; and**
- 2. Following public exhibition a further report addressing all submissions is to be submitted to Council.**

REPORT:

Background

Consultation to inform the review of *Tweed Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts* (DCP A1 Part A) has been ongoing over the last 24 months. Initially an industry and community breakfast forum was held in September 2010. An issues paper was distributed at the forum highlighting some of the emerging issues and sought industry and community feedback on the current single dwelling controls on 'what is working and what is not', how new dwellings relate to the sites opportunities and constraints and how they present in the streetscape.

There is a direct relationship between dwelling design, how it responds to the site and context, and how that in turn contributes to neighbourhood and locality character. The design of housing and ancillary development, being the most common form of development within the Tweed has the potential to significantly impact the character of the Tweed.

An ongoing consultative approach has been used to seek community input and inform the review and draft amendments of DCP A1 Part A. Based on feedback received from the initial breakfast meeting of September 2010 and further in house analysis of the issues, a range of discussion papers were prepared. These discussion papers sought to engage the community and industry on how they wanted housing in the Tweed to look and to find out what the community perceived to be the issues with housing. Consultation on the discussion papers was undertaken in two stages.

The first stage consultation occurred from 12 September 2011 through to 15 October 2011 on the following discussion papers:

- Designing in Context;
- Sloping Sites – Managing Cut and Fill;
- Landscaping, Deep Soil Planting Zones and Outdoor Areas; and
- Small Lot Housing.

The second stage of consultation occurred from 14 May through to 12 June 2012 on the full suite of 6 discussion papers, which also included:

Building Envelopes; and
Ancillary Structures

The discussion papers addressed specific issues identified for review in the DCP and provided a summary of:

The objectives and controls.

What they seek to achieve.

How is the housing market meeting or responding to these objectives and controls?

Is the finished housing outcome meeting the objectives?

Is the finished housing outcome meeting the owner and neighbour expectations?

Is the finished housing outcome integrating with the site and the neighbourhood?

Options for amendment.

Based on consultation feedback, a working draft DCP A1 Part A was workshopped with internal staff (29 August 2012) and at an Industry Breakfast (19 September 2012) to further refine the draft amendments.

During this period Council resolved, on 18 January 2011, that:

“Council brings forward a report on the implications on developing a policy that small lot housing should only be approved only where they back onto green spaces.”

A discussion paper on small lot housing outlining a range of issues and options was included with the DCP A1 Part A consultation information including proximity to open space. Small lot housing is a form of low scale residential housing appropriately captured in Part A of the DCP. It provides an alternative and contributes to the diversity of housing choice. As such small lot housing has been included within the wider DCP A1 review and the implications discussed within this report.

The DCP A1 has been in place for four years. Best practice review of the effectiveness of a DCP is desirable every five years to ensure the currency of a DCP. The review of the Code was endorsed in the Planning Reforms work program of 2012/13 and the project is listed within the current operational plan.

Consultation

In order to engage to community and industry the consultation included a public forum on the “Your Say Tweed” website during both consultation periods. The website included discussion forums and a survey form for each of the discussion papers. A total of 299 discussion papers were downloaded, the most frequently downloaded being *Designing in Context* (89 downloads). The number of completed surveys varied for each of the discussion papers, ranging from 41 for *Designing in Context* to 5 for *Building Envelopes* and *Ancillary Structures*. A total of 20 written submissions were also received in response to the public consultation.

A full summary paper on the surveys and written submissions is included in Attachment 1.

Whilst comments and opinions on character and specific controls varied, the community and industry feedback can broadly be summarised as follows:

- Greater flexibility through performance based controls rather than highly prescriptive controls is supported.
- Designing to suit the climate and context is strongly supported.
- Greater emphasis on site analysis to support more flexible controls is supported.
- Generally the community and industry support allowing individual character of housing whilst still considering and respecting the locality and neighbourhood character.
- Consideration of character is equally important in established and new development areas.
- Designing to suit slope and maintaining the natural topographic character of the Tweed is strongly supported. Feedback indicated that significant cut and fill when creating new housing estates is not supported.
- Linking structural design controls to slope was strongly supported.
- Strong support that private landscaping contributes to the character of the Tweed and is an important part of the overall development of a site.
- Mixed opinions about whether formalised and outdoor rooms are part of and could replace the traditional rear yard landscaping.

- A greater diversity of housing types and affordability levels, including small lot housing, is strongly supported, however there was mixed feedback about how compatible small lot housing is with the Tweed housing character and where these forms of housing should be located.
- Correlation between the DCP A1 and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Code SEPP) is strongly supported.

Draft DCP A1 Part A

The community and industry feedback on the discussion papers has informed the planning and design directions and the drafting of the amendments to the draft DCP A1 Part A, provided in Attachment 2.

To aid the understanding of the amendments, additions and amendments to the draft DCP have been included as red text. It is proposed that the draft DCP A1 Part A be exhibited in this manner.

The DCP A1 Part A review has resulted in a range of amendments. A summary of the key amendments includes:

Performance based controls

Feedback on the discussion papers supports greater flexibility of the controls. A performance based plan, rather than a prescriptive plan, allows for more innovative responses to the unique characteristics of individual locations and sites. The draft DCP A1 has been amended to remove reference to mandatory controls and structure the use of the DCP as follows:

- A hierarchy of best practice “planning and design principles”, a range of “objectives” to achieve desired outcomes, and “controls”.
- The controls provide guidance and possible solutions. Application of the DCP provides flexibility that should the controls not be achievable, or there is a better design solution, the application must demonstrate that the alternative solution meets the “objectives” and the “planning and design principles”. This must be evidenced through a detailed site analysis.

The success of a performance based plan is heavily reliant on an understanding of the site and its context through preparation of a site analysis and demonstration of how the housing selected or designed responds to the site analysis. As such a site analysis will be required for all development.

Incorporation of granny flat (secondary dwelling) and dual occupancy controls within Part A

DCP A1 Part A applies to single dwellings, alterations and additions to dwelling houses and ancillary development. Dual occupancy and granny flat development is currently controlled through Part B. The controls applying to single dwellings, dual occupancy and granny flats contain extensive duplication within Parts A and B. In addition single dwelling, dual occupancy and granny flat development are largely of a similar low residential scale.

Dual occupancy and granny flat development has been removed from Part B and included within draft DCP A1 Part A in order to consider similar forms of development together. The provisions for granny flats have been amended consistent with the exhibited draft Local Environmental Plan (LEP) 2010 allowing 20% of the total floor space of both the main dwelling and the granny flat or 60sqm, whichever is the greater.

Part B and C apply to medium and higher forms of density and are proposed to be reviewed at a later stage. No other amendments have been made to Part B. Given the removal of dual occupancy and granny flat controls from Part B, it is proposed that Parts A and B will both be exhibited. The update Part B is provided in Attachment 3.

Correlation with the Code SEPP

The introduction of the Code SEPP in 2008 and subsequent expansion to apply to urban and rural housing introduced controls that are inconsistent with some of the current DCP A1 controls. Consistency between the DCP A1 and Code SEPP, particularly in regard to lot size and frontage categorisations, will improve the usability of working between both the DCP A1 and the Code SEPP. The draft DCP A1 Part A has removed controls which are inconsistent with what may be undertaken as either exempt or complying development. Under the Code SEPP

Controls for building height, setbacks, and landscaping and site coverage have been converted to a table format based on the lot size and frontage categorisations correlating with the Code SEPP.

Lot sizes from 200m²

The Tweed demographics forecast that lone person households are expected to make up one third of all housing within the next 20 years. Good locality planning provides a range of housing types, tenures and sizes in order to ensure a diverse and sustainable community. A range of housing types and sizes allows students, young couples, families and the elderly the opportunity to remain and be housed within their community.

Allowing greater diversity of housing and encouraging housing affordability is strongly supported through the consultation feedback. However, there are mixed opinions about how compatible small lot housing is with the Tweed housing character and where these forms of housing should be located.

Locality planning follows planning principles whereby small lot housing forms are suitably located with walkable access to shops, services, transport nodes and recreational areas. This planning approach seeks to reduce the reliance on vehicles, the demand for vehicle parking and improve the efficiency of transport, infrastructure and services. Locality planning does not imply that small lot housing should immediately adjoin these facilities, but should be within a walkable distance.

In addition to location, small lot housing raises a number of dwelling amenity design issues which have been included in the Planning and Design Principles within draft DCP A1 Part A. These include greater design attention to garaging, orientation, privacy, sun light and ventilation.

The application of small lot housing will generally be through detailed assessment as part of locality plans.

Consistent with the provisions of the Code SEPP, the draft DCP A1 Part A has been amended to allow for development on lot sizes from 200m².

Cut and fill

The availability of flat and flood free land in the Tweed is rapidly diminishing and new residential land development is more frequently occurring on sloping land.

Recent trends, permitted under the provisions of DCP Section A5 – Subdivision Manual, are characterised by re-contouring of land to remove the slope and create allotments that will, when combined with existing DCP A1 cut and fill provisions on a 10 degree slope, facilitate single slab on ground construction. Effectively sloping sites are being modified to make “flat” sites. Whilst a degree of re-contouring is necessary, the compounding effects of the DCP Sections A5 and A1 are significantly altering the Tweed’s topographical character and giving rise to allotment interface issues including visually intrusive inter-allotment retaining walls, overlooking, overshadowing and drainage impacts.

For the topographical character of the Tweed to be maintained, as strongly supported through the consultation, housing construction methods will need to evolve and be more responsive to the needs of sloping sites. The notion that houses should respond to the slope rather than the slope being extensively modified to accommodate houses received widespread support.

Draft DCP A1 Part A seeks to provide flexibility to allow greater cut and fill within the building footprint, allowing design innovation for houses on steeply sloping sites, whilst minimising the amount of cut and fill pushed to the allotment boundaries and therefore minimising the need for, and the size of, inter-allotment retaining walls. The draft DCP A1 Part A links construction types to slope to encourage the level changes to be taken up within the building footprint rather than at the allotment edges where the interface issues are occurring.

It is important to note that DCP A1 is limited in application to the construction of a dwelling, after subdivision and bulk earthworks have occurred. The visual impacts on the Tweed are also occurring through bulk earthworks carried out under the DCP Section A5. As there is a direct relationship between these sections of the Tweed DCP and it is recommended that a review of DCP Section A5 should also be undertaken to more fully address the cumulative impact of subdivision and individual construction earthworks.

Landscaping / deep soil zones / site coverage

The draft DCP A1 Part A has consolidated and simplified landscaping, deep soil zones and impermeable surface areas. The draft DCP A1 Part A retains the requirements for landscaping and a deep soil zone, however, provides greater flexibility to locate these areas with best solar access or in response to site conditions.

The draft DCP A1 Part A replaces the impermeable surface area controls with a site coverage requirement, which is also consistent with the Code SEPP.

Ancillary development

Carports, fences and swimming pools are frequently the subject of development application variation requests. The draft DCP A1 Part A has been amended to:

- Permit double carports, consistent with what is permitted under the Code SEPP, and allow them forward of the building line, subject to conditions;
- Permit swimming pools in front and side yards, subject to conditions; and
- Has revised the fence controls consistent with the Code SEPP and to respond to allowing swimming pools in the front and side yards.

Definitions

The draft DCP A1 Part A has been amended to remove definitions inconsistent with the Standard Instrument (Local Environmental Plans) Order 2006 (SI LEP) and the Code SEPP. This will ensure the DCP A1 definitions will not need to be amended following making of the Tweed Shire LEP under the SI LEP (anticipated early/mid 2013). Given that the Draft Tweed LEP 2010 has been publicly exhibited, development assessment already gives consideration to the definitions of the SI LEP.

Fact sheets

In order to assist future home builders understand and make more informed decisions about site planning and house selection or design a suite of fact sheets has been prepared, covering the topics of:

- Understanding the Planning process
- Understanding Your Site
- Designing for Tweed's Climate
- Working With Sloping Sites
- Planning Your Internal Spaces
- Building Materials
- Landscaping
- Small Lot Housing

It is proposed that the fact sheets be exhibited with the draft DCP A1 Part A.

DCP Section A1 Part B Town Houses and Row Houses

No changes or amendments have been made to DCP Section A1 Part B other than the removal of the dual occupancy and granny flat provisions. Notwithstanding, the DCP A1 Part B has effectively been amended and as such it is proposed that the revised Part B be placed on public exhibition along with the Draft DCP A1 Part A.

Public exhibition

The draft DCP A1 Part A has been prepared such that additions and amendments are included in red text. This does not comprehensively represent all changes to the DCP as the structure has been amended and some text deleted; however, the use of black and red text is used to assist the general understanding of what has changed from the current DCP Section A1 Part A.

The exhibition is to be supported by a range of fact sheets and the summary of submissions received on the discussion papers.

It is proposed the draft DCP A1 Part A and Part B be publicly exhibited for a minimum 28 days in accordance with Section 18 of the Environmental Planning and Assessment Regulations 2000.

OPTIONS:

1. Council endorse the public exhibition of the draft DCP A1 Part A and Part B; or
2. Council determines that the draft DCP A1 Part A be deferred for further consideration prior to public exhibition.

CONCLUSION:

The review of the *Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts* has been undertaken with extensive and ongoing community and industry consultation to ensure amendments are in line with community opinion and expectations on housing.

The draft DCP A1 Part A incorporates structure changes that introduce greater flexibility through a performance based rather than prescriptive based development control plan. In association with this change the draft DCP A1 places a strengthened requirement on the submission of a site analysis plan.

Amendments to the controls are in response to ensuring the DCP correlates with the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Code SEPP) and the feedback from community and industry in response to the suite of discussion papers.

It is recommended that the draft DCP A1 Parts A and B be publicly exhibited for a minimum 28 days and a report on the draft DCP A1 be submitted to Council following completion of the public exhibition period and assessment of submissions.

COUNCIL IMPLICATIONS:

a. Policy:

The proposed changes to the Draft DCP A1 should bring a closer correlation with the expectations of the community and the development/building industry in terms of future, small scale residential developments.

b. Budget/Long Term Financial Plan:

The review of DCP A1 is included in the current financial year budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.2 Improve opportunities for housing choice
- 2.2.1.1 Investigate appropriate building typologies and construction methods that foster environmentally sensitive site design and good urban design practice.
- 2.2.1.1.1 Investigate and conduct review of Tweed Development Control Plan 2008 – Section A1

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).*

- Attachment 1 Development Control Plan (DCP) A1 Consultation Summary and Nexus to draft DCP Amendments, September 2012 (ECM 57316108)
- Attachment 2 Draft Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions, Dual Occupancy, Secondary Dwellings and Ancillary Development (ECM 57551949)
- Attachment 3 Draft Development Control Section A1 – Residential and Tourist Development Code Part B – Town Houses and Row Houses (ECM 57317116)
-

- 8 [PR-CM] Tweed Development Control Plan 2008 - Section B24 and DA09/0701 for a 300 Lot Residential Subdivision (Department of Planning Application MP09_0166) at Lot 40, 43 DP 254416; Lot 2 DP 778727; Lot 1 DP 781687; Lot 1 DP 781697; Lot 1 DP 304649; Lot

SUBMITTED BY: Planning Reforms

FILE REFERENCE: DA09/0701 Pt5



Civic Leadership

SUMMARY OF REPORT:

In December 2011, Council endorsed Section B24 of the Tweed Development Control Plan 2008, Area E Urban Release Development Code (the Code). The Code was prepared to address the anticipated staged development growth of Area E, being the subdivision of greenfield land, future residential development and the creation of a village centre, coupling regulatory and urban design controls within the broader strategic visioning component.

The Code preparation process involved extensive stakeholder engagement including landowner workshops, a number of Council reports, workshops and a formal public exhibition process of 30 days.

Within the preparation and assessment of a longstanding Part 3A Development Application, known as Altitude Aspire, the landowners, Newland Pty Ltd, have identified controls regarding cut and fill on individual lots, which they claim will significantly impact the viability of their proposal.

Post a series of workshops being conducted with Newland, a request has been made to formally amend the Code. In summary, the request states that:

- Existing controls (particularly Development Control 1 of Section 4.2 – Cut & Fill) provide an absolute constraint on the ability of landowners to establish functional dwelling houses on lots of greater than 10% gradient;
- Suggested redrafted controls and additional controls;
- Support for a 'stand-alone', 'user friendly' document, consolidating all relevant controls within the Code;
- Re-affirm that if the Code is not amended Newland will not be able to proceed with feasible development of their holdings within Area E (approximately 60% of the release area). Adoption of acceptable amendments by Council would provide adequate comfort to enable Newland to proceed with a revised Preferred Project Report for Altitude Aspire.

Council's assessing officers have reviewed the information provided, along with the extensive modelling and testing undertaken to formulate Council's policy documents concluding that the amendment sought is not warranted at this time.

Whilst the specific request is not supported, opportunities to improve the Code through a Practice Note and further policy maintenance review post public exhibition of Section A1 of the Tweed Development Control Plan 2008 have been identified and supported.

RECOMMENDATION:

That Council, in respect of Section B24 of the Tweed Development Control Plan 2008, Area E Urban Release Development Code:

- 1. Endorses the Practice Note provided within Attachment 3; and**
- 2. Reviews the cut and fill controls within Section B24 of the Tweed Development Control Plan 2008 applicable to residential development within the upcoming Policy Maintenance under the adopted Planning Reform Unit Work Program; and**
- 3. Informs the applicant that should they still wish to pursue a review of Section B24 of the Tweed Development Control Plan 2008 that any review would be subject to Council's established Fees and Charges and potentially a costs and expenses agreement for the planning and design assessment to be undertaken externally.**

REPORT:

Background

At its meeting of 13 December 2011, Council endorsed Section B24 of the Tweed Development Control Plan 2008, Area E Urban Release Development Code (the Code). This occurred after extensive community consultation, and was prepared having regard to the principles of ecologically, socially and economically sustainable development. The Code was prepared by Council's Planning Reform Unit (PRU) in order to advance the strategic planning framework and provide the necessary planning guidelines to regulate the development of the Area E Urban Release Area.

Area E has been recognised in recent decades by both Tweed Shire Council and the NSW Department of Planning and Infrastructure (DP&I) as an important strategic site for urban land release and housing supply catering for a potential additional residential population of about 4,000 people.

The Code preparation process involved extensive stakeholder engagement including landowner workshops, a number of Council reports, workshops and a formal public exhibition process of 30 days.

The Code is structured to address the anticipated staged development growth of Area E, being:

1. Subdivision;
2. The creation of a village centre; and
3. Residential development on individual allotments.

The Code seeks to embody regulatory and urban design controls within the broader strategic visioning component, assisting the interrelationships between the site and phases of its development. This format is more holistic than most DCP formats where the controls and developments of individual sites are often looked at in isolation or a vacuum of other competing factors. It recognises the importance of the interrelationship between subdivision design (including roads, bulk earthworks, infrastructure provision), to individual lots and dwellings, as well as the immediate area and locality.

Part 3A Update

DP&I is currently considering, as the consent authority, a community title subdivision within the eastern portion of Area E, under the savings provisions of Part 3A of the Environmental Planning and Assessment Act 1979. This subdivision is commonly referred to as 'Altitude Aspire'.

The application was initially lodged with the DP&I in February 2011. Following the initial review of the application by both Council and the DP&I the applicant has been revising the project to rectify areas of concerns.

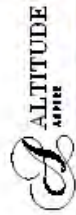
In May 2012 Council staff received a Draft version of the Preferred Project Report (PPR - the amended application) and Council staff have been liaising with both DP&I and the applicant in regard to this project.

The Draft PPR seeks approval for a 272 lot community title subdivision with a single community association land parcel to accommodate a community recreational facility. The proposed subdivision includes the following key elements:

- Construction of Broadwater Parkway within part of the Altitude Aspire site (from the Stage 7 entry roundabout to the eastern boundary of the site);
- Landforming of the site to achieve a balance of earthworks;
- Construction and dedication of all proposed roads within Altitude Aspire;
- Construction of stormwater drainage infrastructure within the proposed roads, lots and drainage reserves, including the central drainage corridor which is to be dedicated as a drainage reserve;
- Construction of water and sewer reticulation to each proposed lot;
- Construction of underground power and telephone services to each lot, including pit and pipe infrastructure in accordance with NBN Co's Guidelines; and
- Construction of a temporary intersection with Fraser Drive, including dedication of the alignment as a temporary public road under Section 9 of the Roads Act, 1983;
- Dedication and embellishment of the proposed casual open space lots.

In addition the Draft PPR requests a Voluntary Planning Agreement between TSC and the applicant to set up a lawful mechanism for contributions to be levied at Altitude Aspire. The contents of this Voluntary Planning Agreement are still being drafted by the parties and their legal representatives. It is envisaged that when the applicant formally lodged the Preferred Project report with DP&I a Draft Voluntary Planning Agreement could be placed on exhibition concurrently.

Following is a plan submitted with the Draft PPR from May 2012 (however this plan is now outdated as the applicants have been reviewing the plan since May 2012).



B. & P. QUARVEY
 CIVIL ENGINEERS & SURVEYORS
 100/102/104/106/108/110/112/114/116/118/120/122/124/126/128/130/132/134/136/138/140/142/144/146/148/150/152/154/156/158/160/162/164/166/168/170/172/174/176/178/180/182/184/186/188/190/192/194/196/198/200/202/204/206/208/210/212/214/216/218/220/222/224/226/228/230/232/234/236/238/240/242/244/246/248/250/252/254/256/258/260/262/264/266/268/270/272/274/276/278/280/282/284/286/288/290/292/294/296/298/300/302/304/306/308/310/312/314/316/318/320/322/324/326/328/330/332/334/336/338/340/342/344/346/348/350/352/354/356/358/360/362/364/366/368/370/372/374/376/378/380/382/384/386/388/390/392/394/396/398/400/402/404/406/408/410/412/414/416/418/420/422/424/426/428/430/432/434/436/438/440/442/444/446/448/450/452/454/456/458/460/462/464/466/468/470/472/474/476/478/480/482/484/486/488/490/492/494/496/498/500/502/504/506/508/510/512/514/516/518/520/522/524/526/528/530/532/534/536/538/540/542/544/546/548/550/552/554/556/558/560/562/564/566/568/570/572/574/576/578/580/582/584/586/588/590/592/594/596/598/600/602/604/606/608/610/612/614/616/618/620/622/624/626/628/630/632/634/636/638/640/642/644/646/648/650/652/654/656/658/660/662/664/666/668/670/672/674/676/678/680/682/684/686/688/690/692/694/696/698/700/702/704/706/708/710/712/714/716/718/720/722/724/726/728/730/732/734/736/738/740/742/744/746/748/750/752/754/756/758/760/762/764/766/768/770/772/774/776/778/780/782/784/786/788/790/792/794/796/798/800/802/804/806/808/810/812/814/816/818/820/822/824/826/828/830/832/834/836/838/840/842/844/846/848/850/852/854/856/858/860/862/864/866/868/870/872/874/876/878/880/882/884/886/888/890/892/894/896/898/900/902/904/906/908/910/912/914/916/918/920/922/924/926/928/930/932/934/936/938/940/942/944/946/948/950/952/954/956/958/960/962/964/966/968/970/972/974/976/978/980/982/984/986/988/990/992/994/996/998/1000

PROPOSED SUBDIVISION
 FOR THE PELEANT STAGE
 BY B. & P. QUARVEY

PROPOSED SUBDIVISION
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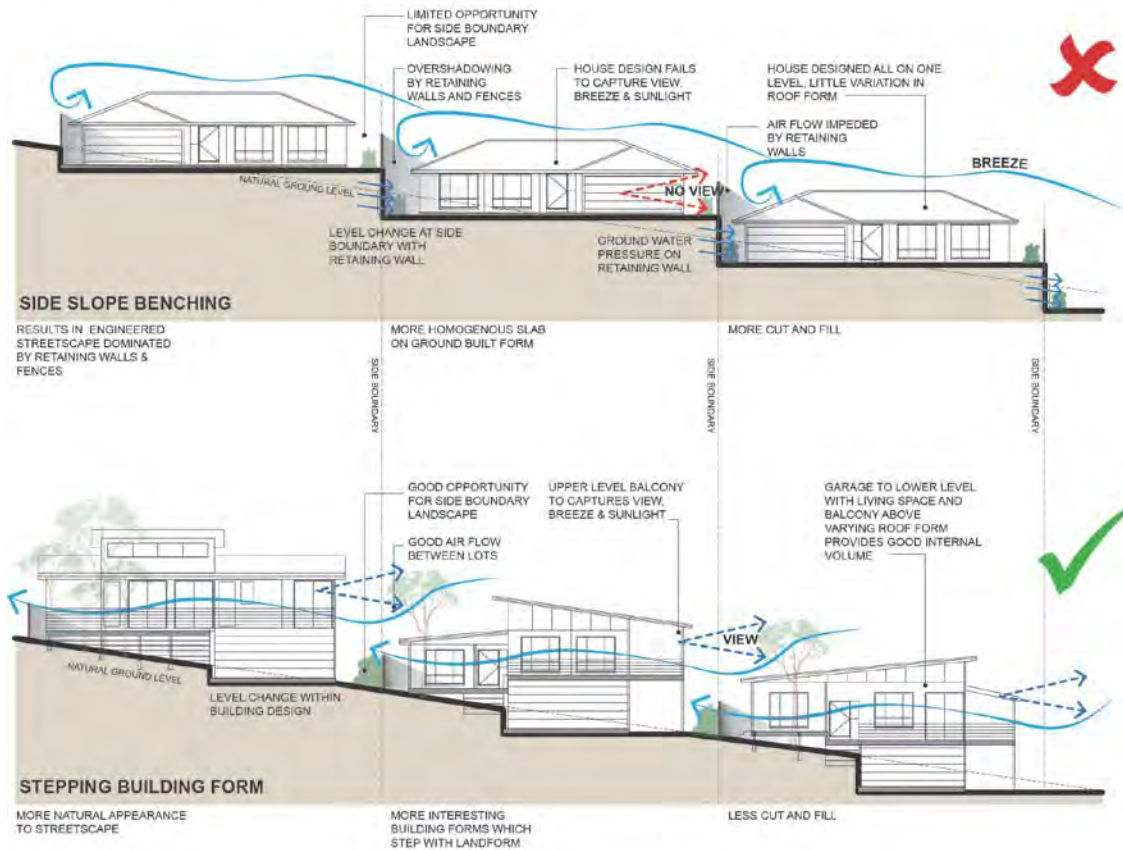
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PROPOSED SUBDIVISION
 FOR THE PELEANT STAGE
 BY B. & P. QUARVEY

In July 2012 Council staff wrote to the DP&I and identified issues with the Draft PPR. Primarily Council staff were concerned that the application was still failing to have adequate regard for the slope of the subject land. The below diagram demonstrates both the inappropriate housing type and the preferred housing type on sloping sites.



The applicant has now indicated that upon review the bulk earthworks to occur at the time of subdivision appear capable of satisfying the numerical requirements of Tweed DCP Section A5 Subdivision Manual, however, the full earthworks plans are yet to be received.

If compliance at the time of subdivision can occur then the applicant need only then ensure that all future dwellings can comply with the development controls relating to cut and fill to ensure a stepping building form as demonstrated above. The current controls to regulate this are contained within Tweed DCP Section B24 Part 4 Residential, Section 4.2 Cut and Fill which state:

1. *All natural ground levels are to be maintained except where land reforming is necessary to allow the building and approved buildings or structures in which case excavation is limited to the width of the building footprint rather than the width of the site.*
2. *On sloping sites excavations must not be made for a contiguous slab on ground construction if the lot has a slope of greater than 6 degrees or 10%. Design on sloping sites should reference sloping design principles and the sloping sites matrix included within this plan.*
3. *Level change is to be taken up within building design, rather than at property boundaries.*

4. *All proposed site works including cut, fill, benching and retaining walls to be accurately represented and documented as part of a development application submission by way of a site works plans and sections.*
5. *All excavation, cut and fill is to comply with the provisions of the Tweed DCP Section A1 – Residential & Tourist Development Code. Cut allowances may be increased to a full level (2.7m) where design relates to the slope in terms of stepping slabs, drop edge beams, post and beam construction and is within the building envelope.*
6. *Where cuts exceed 1.0m they should be retained and backfilled to the wall of the dwelling with the retaining wall designed and constructed to the specification of a certified structural engineer. In addition any cut and fill outside of building envelope would be controlled by the +/-1.0m control.*
7. *Site cut and fill within building envelope should be obscured from view by way of ladding, screening and or landscaping.*
8. *Where possible, the use of the stone found on the site should be incorporated into the retaining walls, although it is understood that this stone would not be suitable for structural elements of retaining walls.*

These controls present a concern to the applicant and form the reason for this report.

The applicant has indicated that the official Preferred Project Report will not be lodged with DP&I until the issues relating to cut and fill are resolved.

There is a level of urgency with this project as the NSW Government repealed Part 3A last year and gave proponents until 1 October 2013 to lodge their detailed plans (known as environmental assessments) for public exhibition. If no environmental assessment was lodged by this date, the application was to be removed from the Part 3A system.

The NSW Government made a decision to bring forward this 'sunset' date by 10 months to 30 November 2012. This means that applicants are required to lodge their environmental assessment by this date. While the Director-General can extend the deadline on a case by case basis, this will be done sparingly. Accordingly the applicant will need to continually liaise with DP&I in regards to the proposed official PPR.

DCP Amendment Request

As discussed above, within the preparation and assessment of development application materials of Altitude Aspire, the landowners, Newland Pty Ltd, have identified controls regarding cut and fill on individual lots post subdivision, which significantly impact the viability of their proposal. In this regard, a series of workshops have recently been held with the landowner and relevant Council staff to provide clarification, distil key issues and identify potential resolutions. As a result of this process, a request has been made by the landowner to amend the Code. A full copy of the request is provided as Attachment 1, however can be summarised as follows:

- Existing controls (particularly Development Control 1 of Section 4.2 – Cut & Fill) provide an absolute constraint on the ability of landowners to establish functional dwelling houses on lots of greater than 10% gradient;
- Suggested redrafted controls and additional controls;
- Support for a 'stand-alone', 'user friendly' document, consolidating all relevant controls within the Code;

- Reaffirm that if the Code is not amended Newland will not be able to proceed with feasible development of their holdings within Area E (approximately 60% of the release area). Adoption of acceptable amendments by Council would provide adequate comfort to enable Newland to proceed with a revised Preferred Project Report for Altitude Aspire.

Development Control 1 of Section 4.2 – Cut and Fill reads as follows:

All natural ground levels are to be maintained except where land reforming is necessary to allow the building and approved buildings or structures in which case excavation is limited to the width of the building footprint rather than the width of the site.

After attending several workshops with the landowners and reviewing the request for amendment, two primary issues can be distilled; firstly the clarity of controls within the Code and secondly, the validity of controls imposed. These two matters are discussed as follows:

Clarity of Controls

The Code was prepared in accordance within the NSW Environmental Planning and Assessment Act 1979 framework, which provides strategic direction, development standards and controls to the site via greater than 35 applicable documents and sections of the Tweed DCP. The Code details its relationship to these documents within Section 1.5 and Figure 1.2. Figure 1.2 of the Code is displayed below.

Figure 1 – Relationship of the Code to the wider planning framework

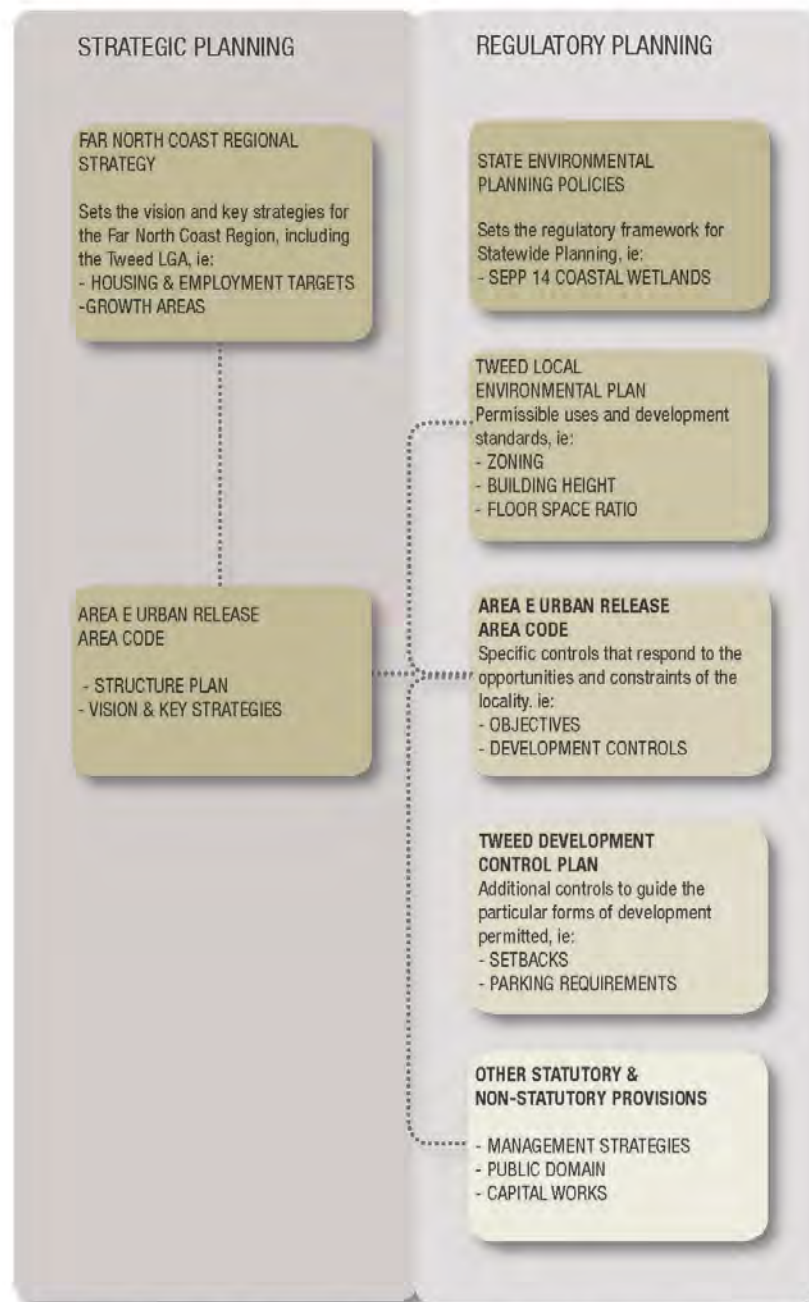


Figure 1.2 Urban Release Area Development Code relationship with other documents and policy
 This Code combines both elements of the planning process so that the regulatory component has a strong strategic focus, justification and relevance. The above illustrates the relationship between the Urban Release Development Code and the various implementation mechanisms.

Having regard to the wider NSW planning framework, it is necessary to read and apply the provisions of the Code in conjunction with other applicable documents. Specific to the foremost concerned 'Development Control 1', are the provisions of State Environmental Planning Policy – Exempt and Complying Development Code (SEPP E&C). The provisions of the SEPP E&C prevail in the event of an inconsistency with the Code. In relation to earthworks, the SEPP E&C provides as follows:

Exempt development **Subdivision 15 Earthworks and retaining walls**

“2.30 Development standards

The standards specified for that development are that the development must:

- a) be for domestic purposes only, and*
- b) be located at least 900mm from each lot boundary, and*
- c) if a retaining wall:*
- d) be not higher than 600mm (including the height of any batters) above ground level (existing), and*
- e) if it is on a sloping site and stepped to accommodate the fall in the land—be not higher than 800mm above ground level (existing) at each step, and*
- f) have adequate drainage lines behind it, and*
- g) not require cut or fill more than 600mm below or above ground level (existing), and*
- h) not redirect the flow of surface water onto an adjoining property, and*
- i) cause surface water to be disposed of without causing a nuisance to adjoining owners, and*
- j) be located at least 1m from any registered easement, sewer main or water main, and*
- k) if the fill is more than 150mm deep—not occupy more than 50% of the landscaped area, and*
- l) if the fill is imported to the site—only contain natural materials and must be free of building and other demolition waste, and*
- m) if it is carried out, constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and*
- n) be located at least 50m from a waterbody (natural). In light of the above, whilst referred Development Control 1 of the Code restricts earthworks to the footprint of the building and approved structures, the SEPP E&C enables cut and/or fill outside those parameters up to 600mm.”*

It is acknowledged that replicating the provisions of the SEPP E&C within the Code would consolidate applicable cut and fill controls applicable to the site, however this is not essential, nor generally common practice (to duplicate controls). The provisions of the SEPP E&C enable earthworks to facilitate normal ancillary functions of a dwelling house, such as landscaping, outdoor drying areas, outdoor recreation spaces and access stairs etc.

After reviewing Development Control 1, it has been identified that the terms 'approved structures' and 'building footprint' would better benefit from clarification.

The term 'approved structures' is not formally defined within the Code, however is considered to include the following:

- Decks;
- Pergolas;
- Gazebo's;
- External shade structures;
- BBQ areas;
- Garden sheds;
- Swimming pools;
- Access steps; and
- clothes drying areas.

Likewise, the term 'building footprint' is not formally defined within the Code. A preferred definition of building footprint is as follows:

Building Footprint: is the area of the building to the extent of the edge of the roof line.

In light of the abovementioned matters, a 'Practice Note' has been prepared (Attachment 3) to supplement the Code. The practice note does not form part of the Code, however provides the necessary clarity of the identified development control for applicants and assessing officers. Within any future housekeeping amendment the definitions within the Practice Note will be embedded formally.

The implementation of this Practice Note is considered to resolve any ambiguity with Development Control 1. The primary issue however relates to the level of works the development control provides.

Validity of Controls Imposed

As mentioned previously, Newland has advised that Section 4.2 Cut and Fill, Development Control 1 of the Code is an absolute constraint on the ability of landowners to establish functional dwelling houses on lots of greater than 10% gradient. This component of the request directly seeks to amend the development controls imposed, as opposed to an issue of clarity.

Newland contends that this control precludes any facilities ancillary to a dwelling house (eg. swimming pool, clothesline area, outdoor living area, driveways, etc.) and any effective landscaping or terracing of side boundaries to provide for outdoor drying areas, outdoor recreation spaces and access stairs from the front to the rear yard and a second ingress/egress to the dwelling house.

Newland also advises that particularly on lots greater than 30%, the effect of Development Control 1 will be alienation of the side boundary setback area from any functional use. This will have significant implications for efficient and convenient dwelling design, particularly in relation to laundry access and maintenance of the setback areas.

Finally, Newland states that lawns, gardens and useable areas on gradients of greater than 20% are very difficult to mow or maintain and stormwater runoff velocities can result in erosion and scouring. The inability to landscape and retain allotments in this prestige

residential development will alienate potential buyers anticipating both to add value to their investment and being able to use the whole of their property.

Council's Development Assessment, Strategic Planning and Urban Design staff have reviewed the information provided, along with the extensive modelling and testing undertaken to formulate firstly the controls contained with the Code, but also within the draft Tweed Development Control Plan Part A – Section A1 (draft DCP A1). After reviewing the information submitted, it is the view of Council officers that the amendment sought is not warranted.

To date feedback has not been obtained from the landowner as to whether an alternate to the amendment requested is acceptable. Should the landowner be willing to pursue an amendment other than that submitted, Council officers however have concluded that a middle ground, similar to the draft A1 requirements, could potentially be supported. The cut and fill controls of the draft DCP A1 are contained within Attachment 4.

Whilst the draft DCP A1 controls may be suitable within the context of Area E, these controls have predominately been discussed in industry specific workshops, as opposed to the wider public arena through a formal public exhibition. It is considered desirable to enable this scrutiny to occur to ensure a robust suite of controls. Once those controls are established, their relationship with site specific sections of the Tweed DCP can be rationalised to avoid duplication, ambiguity and inadvertent conflict in controls.

Timing & Resources

The preparation of a DCP amendment involves a number of steps, including but not limited to:

1. Council resolution to prepare the DCP amendment;
2. Further research of amendments sought;
3. Recommendations made and drafting of controls (where appropriate);
4. Council reporting and resolution to publically exhibit;
5. Public exhibition for a period of not less than 28 days;
6. Review of submissions received;
7. Any necessary amendments made
8. Council reporting on the public exhibition process, suggested amendments resulting from submissions and a Council resolution to adopt the amendments proposed.

In light of the above, a likely timeframe for amending the Code would be February 2013 at the earliest. Resources for an amendment to the Code are not currently available within the adopted Planning Reform Unit (PRU) Work Program, as identified within Attachment 2. The PRU have established a process to accept a project outside of the adopted work program, subject to the necessary investigations and assessment being undertaken external of the PRU and the costs of such being borne by the applicant through a Costs and Expenses agreement. Whilst this process is available, it would still absorb some resources and slow existing projects.

The PRU work program includes an allocation of resources for policy maintenance and housekeeping. This project is anticipated to commence in the first quarter of 2013 and provides an opportunity to refine controls for clarity, or remove controls that are no longer valid. Whilst the scope of this project does not enable a holistic review of the Tweed DCP, the requested amendments would be investigated within this process if not embarked on separately.

OPTIONS:

1. Endorse the Practice Note provided under Attachment 3; and

Review the cut and fill controls within the Code applicable to residential development within Council's Policy Maintenance and Housekeeping project; and
Inform the applicant that should they still wish to pursue a review of the Code that any review would be subject to Council's established Fees & Charges and potentially a costs and expenses agreement for the planning and design assessment to be undertaken externally; or

2. Endorse the public exhibition of Tweed Development Control Plan 2008 – Section B24 with development controls to the effect of those contained within Attachment 4; or
3. Review the Code in accordance with the submitted request, subject to the execution of a costs and expenses agreement; or
4. Review the Code in accordance with the submitted request.

Option 1 is considered the best way forward to provide a level of clarity for the applicant and to allow the Code to be reviewed and amended following the exhibition of the draft DCP A1 and within the Policy Maintenance as programmed within the PRU Work program.

CONCLUSION:

The Area E Urban Release Development Code was prepared taking account of the many valuable and relevant elements of the earlier Local Environmental Study, LEP amendment, extensive landowner consultation, as well as seeking to take the current best practice urban planning and community input. The existing prescribed controls are considered to better reflect the sensitivities and qualities of the site than those proposed by the primary landowner within Area E, subject to clarifying the definitions discussed in this report.

Planning Reform staff have identified that post the public exhibition of Section A1 of the Tweed Development Control Plan, a housekeeping amendment will be undertaken to rationalise the provisions of Section A1 and B24, potentially increasing the level of site modification permitted within the Area E Urban Release Area. The preferred time to undertake this review is within the first quarter of 2013, in accordance with the Planning Reform Units' Council endorsed Work Program.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development
- 1.5.2.2 Planning Controls updated regularly

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1: Request for an amendment to Section B24 of the Tweed Development Control Plan made by Newland Pty Ltd (ECM 57610543)
 - Attachment 2: Planning Reform Unit Work Program adopted 15 May 2012. (ECM 57610545)
 - Attachment 3: Practice Note for Section B24 of the Tweed Development Control Plan 2008. (ECM 57610548)
 - Attachment 4: Cut and Fill controls with the draft Section A1 of the Tweed Development Control Plan 2008. (ECM 57610554)
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9 [PR-CM] Planning Proposal PP11/0004 Draft Local Environmental Plan Amendment No. 96 Tweed City Shopping Centre

SUBMITTED BY: Planning Reforms

FILE REFERENCE: PP11/0004



Civic Leadership

SUMMARY OF REPORT:

In 2011, Tweed Shire Council (Council) received a request to prepare a Planning Proposal from Urbis Pty Ltd on behalf of DEXUS Property Group (“DEXUS”), the manager of the Tweed City Shopping Centre. The Tweed City Shopping Centre is the key destination that forms part of Tweed Heads South, the region’s major district retail centre as recognised within Council’s Retail Strategy.

In December 2011, Council resolved to prepare a Planning Proposal (PP) to facilitate the requested changes in zoning, specifically from 2(b) Medium Density Residential, 3(c) Commerce and Trade and 6(b) Private Recreation zones to 3(b) General Business. The proposed amendments are sought to enable the orderly expansion of the existing Tweed City Shopping Centre.

On 29 May 2012, the PP was referred to the Minister for a ‘Gateway Determination’, which was received with the Minister’s conditions on 6 July 2012. In accordance with the conditions of the Gateway Determination, the PP was formally advertised from 1 August to 17 August 2012. During the public exhibition period five submissions were received.

The PP has since been amended to incorporate the submissions received, where appropriate, and possesses sufficient justification to be supported.

In light of the above, it is recommended that the PP, as amended, be referred to the Minister for Planning to be made.

RECOMMENDATION:

That Planning Proposal PP11/0004 (Local Environmental Plan Amendment No. 96) for Lots 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 7 DP 23659; No. 54 Kirkwood Road; Lot 6 DP 23659; No. 56 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive, Tweed Heads South, be referred to the Minister under Section 59 of the Environmental Planning and Assessment Act 1979, for the plan to be made.

REPORT:

Council resolved at its meeting of 13 December 2011 to prepare a planning proposal (PP) for the Tweed City Shopping Centre site, subject to the prior execution of a Costs and Expenses Agreement. A Costs and Expenses Agreement has since been executed and a PP prepared to change the land-use zones within the subject site from 2(b) Medium Density, 3(c) Commerce and Trade and 6(b) Private Recreation to 3(b) General Business. A full copy of the PP is provided as Attachment 1 of this report.

On 29 May 2012, the PP was referred to the Minister under section 56 of the Environmental Planning and Assessment Act, 1979 (the Act) for a 'Gateway Determination', which was received with the Minister's conditions on 6 July 2012. A copy of the Gateway Determination is provided in Attachment 3.

In accordance with the gateway determination, the PP was placed on public exhibition.

Public Exhibition

The PP was publicly exhibited from 1 August to 17 August 2012. During the exhibition period five submissions were received. A full copy of the submissions received and applicable comments can be found in Attachment 2, however, in summary the issues raised include:

1. Requests that the Planning Proposal:
 - Consider likely impacts on threatened species and key habitats within the area
 - Retain bushfire hazard protection zones on the site and not encroach into the National Park Estate Land, or the land containing the remnant Sclerophyll Forest/Woodland to the south-east of the site.
 - Ensure the management strategies outlined within the Aboriginal Cultural Heritage Due Diligence Assessment Report prepared by Everick Heritage Consultants Pty Ltd (March 2010) be considered as part of any future development on the land.
 - Ensure any future expansion of the shopping centre should be supported by a demand model that examines the traffic implications on the wider road network surrounding the site.
2. Noise concerns to adjoining residential development;
3. Safety concerns to adjoining residential development;
4. Buffers to adjoining residential development;
5. Location of and access to services (power and telephone cables, including easements for power and water also present);
6. Visual amenity; and
7. A request from the landowners of Lots 6 and 7 in DP23659 (56 and 54 Kirkwood Road, Tweed Heads South respectively), to be included within the Planning Proposal.

Issues 1 – 6 are considered to be satisfied for the provisions of advancing the PP. It is acknowledged that further detailed design and response will be required within any future development application on the subject site. This will involve compliance with Council's adopted controls as well as a merits based assessment at the development application stage.

Issue 7 is discussed further below.

54 & 56 Kirkwood Road

The Gateway Determination from the Department of Planning and Infrastructure (DP&I), encouraged Council to consider the inclusion of two adjoining lots, being, 54 and 56 Kirkwood Road, within the PP. The inclusion of these lots was considered to meet the objectives of the Planning Proposal and to 'enable the orderly expansion of the existing Tweed City Shopping Centre'.

Council has since been in receipt of a submission from the landowner requesting the inclusion of 54 and 56 Kirkwood Road within the PP. The submission included an assessment of the lots' inclusion against all relevant State Environmental Planning Policies, relevant section 117 Directions and the Tweed Local Environmental Plan 2000. The assessment concludes inclusion would be consistent with the abovementioned planning framework.

The inclusion of the two additional lots consolidates the Tweed Heads South commercial core by rezoning two residential lots (which if the inclusion of the two lots were not to take place, would result in two isolated residential lots surrounded by the shopping centre and Kirkwood Road) to 3(b) General Business.

A consistent zoning of the land south east of the Minjungbal Drive/Kirkwood Road intersection will also help to facilitate a consolidated development footprint in accordance with section 8.1.5 of the Draft Tweed City Centre Development Control Plan. It would also reduce potential amenity conflicts between isolated residential land and expanding commercial development.

The two sites are considered relatively free of environmental constraint and would create an integrated commercial core within the Tweed Heads South area. Accordingly, it is recommended these two lots be included within the Planning Proposal.

Council owned land

The proposal does not include any Council owned land.

Consistency with any regional strategy, instrument or direction

The planning proposal has been assessed against:

- The Far North Coast Regional Strategy (FNCRS) as provided in Table 6 of the attached planning proposal Version 3.
- The FNCRS Sustainability Criteria as provided in Table 5 of the attached planning proposal Version 3.
- Relevant State Environmental Planning Policies (SEPPs) as provided in Table 7 of the attached planning proposal Version 3.
- The ministerial Section 117 Directions as provided in Table 8 of the attached planning proposal Version 3.

The planning proposal is found to be broadly consistent with the above strategies, policies and directions. Where there is inconsistency, this is discussed in the assessment and in all instances has been found to be a minor inconsistency or variation which does not pose a constraint to the rezoning of the land proceeding.

Relationship to Draft Tweed Local Environmental Plan 2010

Council has previously exhibited a draft Tweed Local Environmental Plan (draft SI LEP), prepared within the Standard Instrument Order 2006 template. The draft SI LEP is still

being progressed and is expected to be re-advertised within the next 6 months. For the purposes of any re-exhibition of the draft SI LEP prior to the PP being made, it is intended that the zonings proposed within the PP are adopted. This approach would remove confusion between the documents and provide a consolidated intent for the study area.

OPTIONS:

1. Council approves the Planning Proposal as detailed within Attachment 1; or
2. Council approves the Planning Proposal as previously exhibited (not including 54 & 56 Kirkwood Road, Tweed Heads South); or
3. Council rejects the Planning Proposal.

CONCLUSION:

The planning proposal has been publicly exhibited consistent with the requirements of the Gateway Determination.

The incorporation of Lots 6 and 7 in DP23659 (56 and 54 Kirkwood Road, Tweed Heads South respectively), further assists with the rationalisation of urban zonings in this area and provides a logical planning outcome.

Redevelopment and expansion of the existing shopping centre will increase access to a broader range of services, employment opportunities, and will further reinforce the area as the Tweed's principal commercial retail precinct.

In the long-term the expansion of the centre will likely lead to a reduction in car travel as Tweed residents will be able to more readily service their retail needs from within the Shire, avoiding the need to travel further afield to places like Robina Town Centre, Pacific Fair and the like. This is considered to be a sound sustainable, social and environmental outcome.

Whilst detailed design issues for the future redevelopment of the site will need to be undertaken, sufficient information has been provided in order to satisfy the needs of the Planning Proposal, facilitating the zone change required to enable future expansion of the shopping centre.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1: Planning Proposal Tweed City Shopping Centre Version 3 (ECM 57561507)

Attachment 2: Public submissions review (ECM 57561509)

Attachment 3: Department of Planning and Infrastructure Gateway Determination (ECM 57561510)

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10 [PR-CM] Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/B15



Civic Leadership

SUMMARY OF REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (TLEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. Within the referred amendment, the preparation of a Development Control Plan (DCP) was required prior to the development of the subject site to address a number of matters. The most significant of these matters is the proponent's proposal to remove the currently identified future school site from the DCP.

To facilitate this process, the landowner requested a DCP amendment to Section B15 of the Tweed DCP, as it relates to the Seabreeze Estate (Seabreeze DCP). On 17 July 2012, Council resolved to publicly exhibit the Draft Seabreeze DCP.

The draft Seabreeze DCP was formally exhibited from 1 August 2012 – 5 September 2012, and included a Community Conversation, held at the Pottsville Community Hall on 28 August 2012.

During the exhibition period 43 submissions were received, predominately relating to the provision of school infrastructure within the Seabreeze Estate. A summary of those submissions and responses is provided within this report.

Within this exhibition period, written advice was received from NSW Department of Education and Communities which clearly stated that the Department does not require a school site in the Seabreeze Estate.

The draft Seabreeze DCP, having been widely consulted on, prepared having regard to ecologically sustainable development principles and the expressed views of the NSW Department of Education and Communities, is now considered suitable, and recommended, for adoption, including that amendment to remove the currently identified future school site from the DCP.

RECOMMENDATION:

That Council:

- 1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B15 – Seabreeze Estate, arising from the review of public consultation submissions;**
- 2. Endorses the Development Control Plan Section B15 – Seabreeze Estate, as amended, and provided as an attachment to this report;**
- 3. Endorses the public notice of the adoption of the Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53E(5) and 53E(6) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Seabreeze Estate – Stage 2; and**
- 4. Requests a copy of Development Control Plan Section B15 – Seabreeze Estate be forwarded to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000; and**
- 5. Endorses a review of the education infrastructure strategies and controls contained within Tweed Development Control Plan – Section B21 – Pottsville Locality Based Development Code within the next available housekeeping amendment.**

REPORT:

On 17 July 2012, Council resolved to publicly exhibit a draft Development Control Plan Section B15 – Seabreeze Estate (draft Seabreeze DCP). A copy of the Council report from 17 July 2012 is provided in Attachment 1 of this report.

The overarching intention of the draft Seabreeze DCP is to satisfy the provisions of Clause 53E(5) of the Tweed Local Environmental Plan 2000, enabling the urban use of land referred to as 'Seabreeze Estate Stage 2'. Specific to the site, the draft Seabreeze DCP seeks to:

- Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
- Remove the currently identified potential future school site in light of discussions with the landowner and NSW Department of Education and Communities;
- Reinforce the need for a 50m riparian buffer to Cudgera Creek, consistent with the Tweed Coast Estuaries Management Plan and previous Local Environmental Studies;
- Provide guidelines for high quality urban design built form, open space and public domain areas within Seabreeze Estate; and
- Improve the usability of the DCP through general housekeeping revision.

The draft Seabreeze DCP was formally exhibited from 1 August 2012 – 5 September 2012. During the exhibition period 43 submissions were received, predominately relating to the identified potential future school site within the Seabreeze Estate. Consultation also included a Community Conversation, held at the Pottsville Community Hall on 28 August 2012. This was attended by approximately 84 community members, Councillors and the Federal Member for Richmond, Justine Elliot.

School Infrastructure

As detailed within the 17 July 2012 Council Meeting, the request to remove the 'Potential Future School Site' designation was made as a result of a variety of factors, namely:

- Discussions with Department of Education and Communities (DEC) staff over the past 12 months have identified that there is currently insufficient demand to warrant a high school within the Pottsville locality, however demand may be present for a kindergarten and/or primary school;
- The provision of a new School in Pottsville is still contingent on enrolment projections at the current school at Pottsville being achieved and the Dunloe Park development progressing;
- Informal discussions with DEC staff indicate that whilst a potential school has long been earmarked for the subject site, it does not appear that the demand for such infrastructure will arise in the immediate to mid-term.

During the public exhibition period, formal comments from DEC regarding the potential school site were received by Council. A copy of the comments received is provided within Figure 1.

FIGURE 1 – Advice received from NSW Department of Education & Communities



**Education &
Communities**

Joshua Townsend
Planning Reform Unit
Planning and Regulation
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

SEABREEZE EST DEV.
D.C.P. - B15

TWEED SHIRE COUNCIL
FILE No: GT10CP/B15 #1
DOC. No: 55901585
RECD: - 5 SEP 2012
ASSIGNED TO: TOWNSEND, J
HARD COPY <input checked="" type="checkbox"/> IMAGE <input type="checkbox"/>

DGS12/1564
Your ref: Draft Seabreeze DPC
GT1/DPC/b15

Dear Joshua

**Tweed Development Control Plan 2008, Section B15
Seabreeze Estate Pottsville, Amendment No 1.**

I write in response Tweed Shire Council's resolve to prepare and exhibit an amendment to Section B15 of the Tweed Development Control Plan, relating to the Seabreeze Estate, Pottsville (Draft Seabreeze DPC) and your email of 31 July 2012, inviting the Department of Education and Communities to comment on the planning proposal which is currently on Public Exhibition.

~ 54142476

The Department acknowledges that the developers proponent, Daryl Anderson Consulting, submitted a request to Tweed Shire Council in March 2012 requesting a Development Control Plan amendment to Section B15 (Seabreeze Estate). The DPC amendment seeks to remove the longstanding designation of the land as a school site to enable development of the land for approximately 160 residential lots.

The Department provided advice to Daryl Anderson Consulting Pty Ltd on the 4 October 2011 of its interest in identifying a primary school site in the Seabreeze Estate (Section B15). The Department also advised that it did not require a site for a secondary school.

In February 2012, the Department became aware of the proposal to develop a non government primary school in Charles Street Pottsville. It is understood there is a development application, currently before Tweed Shire Council for the 420 student Catholic school.

The Department undertook a high level needs analysis for the proposed amendment. This analysis indicates that public student enrolment demand generated by the B15 Seabreeze DPC amendment can be accommodated in existing government and proposed non government education facilities in the Pottsville area and therefore does not require a school site in the Seabreeze estate.

The Department's Regional Asset Planner will continue to monitor education needs in the Pottsville area and in consultation with Tweed Shire Council, continue to explore as a priority the identification of a future primary school site in the Dunloe Park Release Area.

Thank you for the opportunity to comment on the planning proposal. The Department requests that the Council continues to inform the Department of any significant changes to

the plans, new land rezoning and any new significant residential subdivisions in the area. Significant changes and/or new developments may warrant further analysis and investigations for essential education infrastructure.

As stated above, DEC have advised that a school site within the Seabreeze Estate is not required, rather, that options within the Dunloe Park residential development are to be explored to facilitate further public school facilities.

In light of the views of the state education provider, the specific retention of the site solely for school purposes is considered unwarranted and restrictive on the landowner.

The removal of the school site designation does not preclude a school being developed on the subject site in a legal sense as this is a permissible landuse under the existing 2(a) Low Density Residential zone. However, in a practical sense this is likely to be the net result as the landowner has expressed an intention to erect residential lots in its place.

Consideration of a future school site through consultation with the DEC and the wider community will be undertaken throughout the future planning processes anticipated at Dunloe Park. Alternatively, DEC or any other school provider are able to pursue school infrastructure on other land within the Pottsville locality, as schools are a permissible land use in all zones within the Tweed Local Environmental Plan 2000 except zones 1(b) Agricultural Protection, 4(a) Industrial, 6(a) Open Space and the Environmental Protection/National Parks zones.

Policy Housekeeping

Tweed Development Control Plan - Section B21 - Pottsville Locality Based Development Code (the Code) was adopted in April 2010. The Code, after considering population demographics, growth rates and the opportunities for further residential development within the locality, concluded there would be demand for an additional primary school and establishment of a local high school within the Pottsville locality. The Code undertook a desktop analysis of a number of potential sites and ultimately concluded identification of a school site within Seabreeze Estate or within the Dunloe Park Release Area should be explored as suitable priority locations.

The investigations undertaken within this draft Seabreeze DCP process supersede those investigations of the Code. Within Stage 2 of the Seabreeze Estate, Section B15 prevails to the extent of any inconsistency with the Code, nonetheless it is considered better planning practice that the two policy documents are consistent in light of the revised vision and circumstances for the site. It is recommended that the Code, as it relates to education facilities and the Seabreeze site be reviewed within the next housekeeping review and amendment/s under the Planning Reforms work program of policy maintenance.

Public Submissions

During the exhibition period 43 submissions were received, predominately relating to the identified potential future school site. Table 1 provides a summary of the submissions received, along with relevant planning comments.

Table 1 – Public Submissions Summary

Comments received	No. of Submissions	Planning comment
<i>School Infrastructure</i>	41	
<p><i>Issues:</i> The 2011 census data also shows Pottsville has 1448 children under 9 and 1214 children 9 -19 years old. This would appear to meet the stated criteria of 1000 – 1200 required to necessitate a High school as quoted by the NSW Minister for Education in his letter to us in May this year. This is, of course, only one of the criteria but it is certainly indicative of the current and future need in the Pottsville area.</p> <p>There are 7 kindergarten classes at Pottsville primary, this data alone is enough to warrant a high school. The 2011 census data for the Pottsville area shows the population has gone from 3298 to 5735 in the last 5 years. The development of the Seabreeze estate has been a major contributor to this population increase.</p> <p>The letter from the DEC also states that the need for a high school at Pottsville will be reviewed periodically. This indicates the potential for the future requirement of this site. The residential development identified as Area E in Banora and that in Seaside City will also increase capacity in existing schools contributing to the future need of a school site in Pottsville.</p> <p>Of the three potential High school sites identified in the Pottsville Locality Based Development Code (2010) the Seabreeze site was identified as the most advantageous in terms of access and location. With the many problems associated with developing the Dunloe Park residential area it would seem inappropriate to rely on this for the future High school site. The possible location in the Pottsville Employment lands was also found to be inappropriate in the 2010 Development Code.</p> <p>It is strongly felt in the community that the masterplan for the Seabreeze development promised many things including neighbourhood shops, a childcare centre and a school. These are factors which greatly contribute to the liveability of a residential area and contributed to the decision to buy into this development for many. The removal of the high school sporting fields, which seem to be currently identified as part of the Open Space strategy requirements for the existing stage of this development is a further consideration. The neighbourhood shops did not eventuate and now to have the potential for a school effectively removed is a further erosion of advertised future services. Many families have moved to the area with the view that the planning for the high school in the Seabreeze Estate would go ahead. Diminishing the probability of a high school in this suburb may well be the force that drives me and my family, and many others like us, from this area. It will be the death knell for the suburb. Granted, it</p>		<p>As identified within Pottsville Locality Based Development Code, the currently designated Potential School Site possesses a number of qualities that, from a community planning perspective, make it an advantageous site for school infrastructure. Additionally, best practice planning seeks to co-locate a mixture of land uses to facilitate vibrant community life. The provision of community facilities, such as schools is highly desirable where sufficient population is present to sustain them.</p> <p>As indicated within the Community consultation, the landowner remains open to the site being utilised for school purposes, however, to-date no school providers have made a firm commitment to purchase the site. The landowners have expressed that after 12 years of the site being earmarked, their commercial needs require them to move forward with the development of the site.</p> <p>Council's Planning Reform Unit acknowledges the public view that additional school facilities are desirable for Pottsville in light of its population and demographics. However, DEC, the state education provider, does not currently see a role for the earmarked site within the Seabreeze Estate within its wider school facilities network. In this regard, Council is not a school provider, accordingly it is considered appropriate to follow the advice received from a school provider, being DEC.</p> <p>The removal of the potential school site designation from the Seabreeze DCP does not preclude the construction of school facilities within the Pottsville locality. In this regard, DEC have indicated a desire to pursue a site within the</p>

Comments received	No. of Submissions	Planning comment
<p>will be a slow and painful demise, but it will change this region fundamentally.</p> <p>Council is charged with building the foundations of communities. Without appropriate allocation of land resources, all the other elements that aggregate to form healthy and sustainable communities come unstuck.</p> <p>Council should not allow this site to be sold off as residential lots without an alternative high school site in place I realise that families need housing and land to build on but it would be much more responsible to invite more families to the area once our ever increasing problem of High School overcrowding was immediately addressed.</p> <p>Currently the nearest high school is at least 40 minutes by bus and is quickly reaching capacity. Beyond Kingscliff, the only other alternative is to send children to Tweed Heads or Murwillumbah, which would be at least a 2 hour round trip. This is simply not an acceptable option.</p> <p>It is clear there is no suitable alternative site to that allocated in the Seabreeze estate, and should that preferred site be rezoned it would clearly set to unravel the fabric of the otherwise robust and vibrant community that exists in Pottsville.</p> <p><i>Suggested Outcomes:</i> The removal of this potential high school site before an equally suitable, alternative site is identified and acquired in the Pottsville area does not serve the public interest. It is inconsistent with two of the aims of the current and draft DCP, namely: "Ensure that necessary services and community facilities infrastructure are available in an orderly and economic manner" and to "facilitate cost-effective residential development of a high standard of amenity, convenience, safety and environmental sustainability".</p> <p>The application to amend the DCP should be rejected</p> <p>We therefore ask that the current amendment does not include the removal of the potential high school site and that all future applications for residential development within 'Stage 2' of the Seabreeze site continue to be required to be bound on this point by the provision of a high school site at Seabreeze.</p> <p>The site should remain designated as a site suitable for a school for the next five years.</p> <p>As suggested at the community meeting held in Pottsville this past Tuesday, any decision should be deferred until:</p> <ol style="list-style-type: none"> 1. The community (or representative of same) can discuss the decision of the Department of Education & Training (DET) with their 		<p>future Dunloe Park development, in addition, schools are permitted land uses throughout the majority of zones under the Tweed Local Environmental Plan.</p> <p>Accordingly, it is not considered a necessity to earmark an alternative site 'in-trade' for the Seabreeze site until such time that DEC or an alternative school provider are willing to formally commit to a site, process or project. The process of Council earmarking an alternative site without an education provider commitment would likely inflate community expectation, without providing certainty to the construction of a school on any site.</p> <p>In light of the above, no amendment to the draft Seabreeze DCP is recommended, enabling the earmarked site to be developed for purposes other than a school.</p>

Comments received	No. of Submissions	Planning comment
<p>representative, who to date have been conspicuous by their absence</p> <p>2. An expression of interest be placed by the landowners/developers for any private entity who may be interested in using the site for said purpose – a high school</p> <p>3. If the landowners/ developers are SO supportive of having a high school within the community, why is there a time limit on holding the land? The allocated 6 hectares is but a small part of a much larger development area.</p>		
Buffers		
<p>Commend the proposed increase in buffer from existing cane fields.</p> <p>Support the requirement of the 50m riparian buffer zones</p>	1	Comments noted, no further action required.
Sewer allocation	1	
<p>Stage 8 of the Seabreeze Estate is essentially complete and Council is therefore requested to delete this stage from Map 6.1 and make consequential amendments to Section B15.2.8 to adjust the ET allocations to Stages 15 – 17.</p> <p>The Draft Plan allocates a minimum of 10ET to the town centre. Given that the town centre site has an area of 2305m² and assuming 1000m² of shop GFA equates to 2 – 3 ET based on the rates in Council's Fees & Charges. Council is requested to amend this Section to allocate 3 ET to the town centre.</p>		<p>Within the draft Seabreeze DCP, a total of 200 Equivalent Tenement (ET) was identified as available to the land identified in Map 6.1 and that a minimum of 10 ET was to be allocated to the identified 'Town Centre'.</p> <p>Post receipt of this submission, Planning Reforms officers have met with the proponent on this matter, clarifying the methodology behind the stated 10ET.</p> <p>Further investigations have concluded that a minimum of 7ET is desirable in order to enable the creation of a vibrant activity hub for Seabreeze residents.</p> <p>The proponent has supported the revision of the stated Town Centre sewer allocation to 7ETs and the draft Seabreeze DCP has been amended accordingly.</p>

Comments received	No. of Submissions	Planning comment
Key corner site land use	1	
<p>Council is requested to amend Maps 6A and 7A by deleting the 'potential open space location' and 'key corner site' etc. and inserting 'potential child care centre site'.</p>		<p>Post receipt of this submission, Planning Reform officers have met with the proponent on this matter, clarifying the desire for the key corner site to possess a landmark, whether that be by way of open space, architecturally designed multi-dwelling housing, or other means (such as architecturally designed child care facilities).</p> <p>Planning Reform officers propose to amend the Draft Seabreeze DCP as it relates to the key corner site at the juncture of Tom Merchant Drive and Seabreeze Boulevard to read as follows:</p> <p><i>Investigate the provision of higher order land use and design excellence through the subdivision pattern and built form to reflect and reinforce the landmark location of the corner.</i></p> <p>The proponent supports the revision of key corner site controls. The draft Seabreeze DCP has been amended accordingly.</p>

OPTIONS:

1. Council approves the proponent's request and amend the draft Seabreeze DCP as detailed within Attachment 2, or
2. Council rejects the proponent's request to amend the DCP thereby retaining the existing Section B15 of the Tweed Development Control Plan.

Based on the written advice from the NSW Department of Education and Communities (DEC), the Council officers have recommended Option 1.

CONCLUSION:

A key component of the draft Seabreeze DCP is the requested removal of an earmarked potential school site to enable the development of that land for residential purposes.

The provision of an additional school for the Pottsville locality has long been discussed amongst the community, developers, Council and education providers. Since 2000, the subject land within Seabreeze Estate has been identified for a potential school site. When considering the previous land size allocation and surrounding infrastructure provision, the most likely use was for a high school. However, more recent population and demographic trends, as well as other factors in the way educational needs can be accommodated, have led Department of Education and Communities (DEC) to conclude that a high school is not required for the foreseeable future. Further to this advice, through the public exhibition process of the draft Seabreeze DCP, DEC has formally advised that a school site within the Seabreeze Estate is not required.

In light of the views of the state education provider, the specific retention of the site solely for school purposes is considered unwarranted and overly restrictive.

The removal of the potential school site designation from the Seabreeze DCP does not preclude the construction of school facilities within the Pottsville locality. DEC have indicated a desire to pursue a site within the future Dunloe Park development. In addition, schools are permitted land uses throughout the majority of zones within the Tweed Local Environmental Plan 2000.

Accordingly, it is not considered a necessity to earmark an alternative site 'in-trade' for the Seabreeze site until such time that DEC or an alternative school provider are willing to formally commit to a site, process or project. The process of Council earmarking an alternative site without an education provider commitment would likely inflate community expectation, without providing certainty to the construction of a school on any site.

COUNCIL IMPLICATIONS:

a. Policy:

Council is being requested to amend Section B15 - Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008.

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development
- 1.5.2.2 Planning Controls updated regularly

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1 Council Meeting Report of 17 July 2012. (ECM 57502994)

Attachment 2 Tweed Development Control Plan – Section B15 – Seabreeze Estate, Pottsville. (ECM 57503009)

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11 [PR-CM] Draft Tweed Local Environmental Plan 2012

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GTI/LEP/2012



Civic Leadership

SUMMARY OF REPORT:

The State Government's Standard Instrument (Local Environmental Plans) Order 2006 (SI template) requires all NSW local environmental plans (LEPs) be converted to the SI template format.

This report provides a summary of the background to the Tweed Shire wide LEP conversion process, the first exhibition which took place in January to April 2010, the methodology of converting the current plan into the new SI template and the guiding principles of drafting the revised Tweed LEP 2012. It also contains a summary of submissions received during the previous public exhibition, subsequent consultation, key themes identified throughout the drafting stage and recommendations for proceeding.

Since the 2010 public exhibition the State government have amended the SI template and provided additional directions for the preparation of SI template LEPs. The implications of these changes are discussed within the report.

The State Government has recently given strong direction to NSW councils to complete their SI template LEPs in the first quarter of 2013 so that the new 'Planning Act' currently under consideration can be effectively implemented in June 2013.

The NSW Department of Planning and Infrastructure has also published a media release on 20 September 2012 stating that it "*will not endorse the use of the E2 and E3 environmental zones on land that is clearly rural in council local environmental plans (LEPs) on the Far North Coast.*" This is in response to a number of councils seeking to expand the application of the E2 and E3 zones through the SI template LEP preparation.

The draft Tweed LEP 2012 has been prepared for public re-exhibition based on a conversion of the current Tweed LEP 2000, consistent with the State government directions and with Council's local planning strategies and policies.

The draft Tweed Development Control Plan (DCP) Section A16 *Trees and Vegetation Preservation Code* has been drafted to be placed on exhibition concurrently with the draft Tweed LEP 2012. This Section of the DCP aims to protect the biodiversity, amenity and cultural values of the Tweed Shire through the preservation of trees and vegetation. As discussed in the report, this Section is linked with several clauses of the draft LEP; it is therefore recommended to exhibit the two documents together.

RECOMMENDATION:

That Council endorses:

- 1. The draft Tweed Local Environmental Plan 2012 be placed on public exhibition for a minimum period of 28 days;**
- 2. The supplementary draft Tweed Development Control Plan (DCP) Section A16 *Trees and Vegetation Preservation Code* be placed on public exhibition concurrently with the draft Tweed Local Environmental Plan 2012; and**
- 3. Following public exhibition a further report addressing all submissions is to be submitted to Council.**

REPORT:

1. PURPOSE OF THE LEP REVIEW

In March 2006, the legislation governing land-use planning in New South Wales changed and with this change came a new framework for local environmental plans - the Standard Instrument. The change aims to simplify the planning system for residents, businesses and councils by significantly reducing the overall number of LEPs and by introducing a consistent approach to land use planning controls across NSW. It stipulates that all NSW local governments must revise their LEPs consistent with the standard format.

Council has prepared the draft Tweed LEP 2012, as provided in Attachment 1, using the Standard Instrument template, under the legislative requirements of the NSW Environmental Planning and Assessment Act, 1979, supported by Practice Notes and guidelines published by the NSW Department of Planning & Infrastructure (DP&I).

The Draft LEP is being prepared under the legislative provisions in force prior to the amendments which came into effect on 1 July 2009. As such, there is a requirement to exhibit the draft LEP for a minimum of 28 days.

2. FIRST EXHIBITION IN 2010

The first exhibition of the draft LEP took place in 2010 (draft Tweed LEP 2010). Council undertook extensive public consultation, with the LEP on public exhibition initially for a period of 65 days from 27 January 2010 until 31 March 2010. Council extended the exhibition for an additional 30 days until 30 April 2010 after receiving community requests for further time to respond to the documents on exhibition. This represents a total of 95 days, far longer than the minimum 28 days required by legislation.

2.1 Submissions

The draft Tweed LEP 2010 was exhibited concurrently with a draft LEP for the Tweed City Centre. A total number of 411 public submissions were received with about 55 relating specifically to the Tweed City Centre LEP. The draft LEP 2010 issues raised were wide ranging but largely targeted toward key themes, including:

- Minimum lot size provisions for rural dwellings;
- Concerns about the reduction of about 5,500 hectares of environmental zoning resulting from the implementation of the Tweed Vegetation Management Strategy 2004 (TVMS), which owing to the changes in the legislative scheme was incomplete;
- The accuracy of the Council's bushland and vegetation mapping;
- Height of buildings; and
- Floor space ratio.

A submissions assessment table, in Attachment 2 provides a summary of the submissions review process. Each submission was given a unique identifier (a number). Submissions were then grouped into eight themes, being: LEP preparation process, the exhibition, general issues, environmental protection, zoning, development standards, LEP clauses and matters outside the scope of this planning process. A planning response and recommended outcome have been provided for each theme and each group of submissions allocated under a theme.

Of the total number of 411 submissions, nine were from State Agencies. No submissions were received from local or state members.

2.2 Provisions for environmental protection in the draft LEP 2010

It was intended initially to incorporate where appropriate any existing LEPs that had been commenced. Notably, this included Draft LEP Amendment No. 21, the purpose of which was to implement the Council's Tweed Vegetation Management (TVMS) Strategy 2004, adopted by Council on 17 April 2007, and completed over a ten year period.

A few difficulties with implementing the TVMS were identified as the TVMS had been developed for realisation within a planning framework that was outmoded by the new instrument and a number of key regulatory or protection recommendations could not be adapted to suit.

This issue was not unique to the Tweed, as councils across NSW commenced the task of preparing their new LEPs, the incompatibilities of the SI template to adequately address many of the complex regional and rural issues arose. Many councils, especially Tweed, found it very difficult to maintain an equivalent level of environmental protection, general regulation and regional identity that their existing LEPs provided. This was driven in part by the diversity of the Shire's natural and urban environments and the limited number of suitable zones within the SI template instrument.

Between 2007 and 2009 several meetings between Council and Department of Planning and Infrastructure (DP&I) senior staff were attended in a bid to resolve the key issues. This was followed by a further resolution of the Council in January 2009 to exhibit the Draft LEP.

The draft LEP 2010 was publicly exhibited from 27 January to 30 April 2010. During the exhibition, some sections of the community expressed concerns regarding the way the TVMS was proposed to be implemented. Following the exhibition, Council officers have been investigating alternative strategies, as a variation to the original TVMS implementation recommendations, to bring about a similar level of environmental protection through the Draft LEP. Whilst a draft Environmental Strategy has been prepared by Officers based on TVMS and the previous adopted position of Council and the SI Template there remains a substantial community engagement process to be undertaken to articulate the Strategy and allow a full understanding of its implications.

In the absence of an adopted, revised environmental strategy with recommendations for the zoning in the draft Tweed LEP 2012 and given the increasing State Government pressure on Council to complete the LEP the first quarter of 2013, the draft Tweed LEP 2012 has been revised to translate the environmental zones of the TLEP 2000 as directly as possible into the SI LEP format. Further review of environmental zoning will be undertaken following completion of a revised environmental strategy.

3. THE DRAFT TWEED LEP 2012

3.1 Content

The written instrument is based on the Standard Instrument template which sets out “mandatory” and “optional” clauses, and also allows Council to include “local” clauses to incorporate relevant area specific provisions from the previous plan (being LEP 2000) and local strategies where they are not inconsistent with the “mandatory” clauses. The written instrument is colour coded to indicate which clauses form part of the Standard Instrument template and therefore cannot be changed or removed (**black text**), and those that have been added by Council and may be changed or removed (**red text**).

It is noted that during the exhibition Council will only be able to address submissions on the draft Tweed LEP 2012 related to the text that is coloured red in the written instrument, as these are the only components of the draft Plan that Council has the ability to adjust or modify.

The table below outlines the mandatory structure of the draft Tweed LEP 2012.

Table 1 Structure of the draft Tweed LEP 2012

Part 1	Preliminary
Part 2	Permitted or prohibited development
	Land Use Table
Part 3	Exempt and complying development
Part 4	Principal development standards
Part 5	Miscellaneous provisions
Part 6	Urban release areas
Part 7	Additional local provisions
	Schedule 1 Additional permitted use
	Schedule 2 Exempt development
	Schedule 3 Complying development
	Schedule 4 Classification and reclassification of public land
	Schedule 5 Environmental heritage
	Dictionary

The draft Tweed LEP 2012 mapping is significantly different to the current Tweed LEP 2000 mapping which contains a land zoning map, business centres map, height of building map and designated roads map.

This report provides the written instrument as an attachment. The mapping is still being converted into the mapping format and requirements of the SI template and, subject to the resolution of Council, will be publicly exhibited together with the written LEP instrument and supporting documentation. As discussed in other sections, the LEP has been prepared essentially as a translation of the current Tweed LEP.

The new mapping has been prepared consistent with the DP&I mapping guidelines and requirements. Under these guidelines 32 map “tiles” have been prepared for the Shire in a variety of scales to accommodate the information required. Each of the “tiles” comprises various sets of maps or map overlays that relate to a clause or clauses within the draft LEP written document rather than one single map. In total, the draft Tweed LEP 2012 contains 16 map overlays as outlined below:

Table 2 List of draft Tweed LEP 2012 map layers.

Map Name	Associated LEP Clause	Map Code
Land application	1.3 Land to which plan applies	LAP
Land zoning	2.2 Zoning of land to which plan applies	LZN
Height of buildings	4.3 Height of buildings	HOB
Floor space ratio	4.4 Floor space ratio	FSR
Lot size	Clauses 4.1 – 4.2	LSZ
Biodiversity	7.8 Terrestrial biodiversity	BIO
Additional permitted uses	Schedule 1	APU
Acid sulfate soils	7.1 Acid sulfate soils	ASS
Flood planning	7.6 Flood planning, 7.7 Floodplain risk management	FLD
Heritage	Schedule 5	HER
Land reservation acquisition	5.1 Relevant acquisition authority	LRA
Urban release areas	Part 6	URA
Drinking water catchment	7.10 Drinking water catchment	DWC
Steep land	7.9 Steep land	STL
Existing and future water storage facilities	7.12 Existing and future water storage facilities	WSF
Coastal risk planning	7.16 Coastal risk planning	CRP

3.2 Guiding principles for drafting the LEP

The methodology of drafting the draft Tweed LEP 2012 has been based on two guiding principles:

- i. The “best fit” conversion.
- ii. Local context based only on Council adopted strategies, plans and policies.

The “best fit” principle aims to convert the Tweed LEP 2000 - zones, clauses, schedules and maps - into the SI template with no, or minimum variations. The application of this principle resulted in the following:

- There are 26 zones in the draft Tweed LEP 2012. Each of them has been chosen from a list of 34 standard zones (provided under the Standard Template) to replace the Tweed LEP 2000 zones. For example, the R2 Low Density Residential zone replaces the Tweed LEP 2000 2(a) Low Density Residential zone. Attachment 3 to this report provides a zone comparison table explaining the rationale for zone conversions.
- Zone objectives and land uses in the draft Tweed LEP 2012 have been tailored to provide a “best fit” translation of relevant Tweed LEP 2000 zones. It is also noted, that certain zone objectives and land uses have been mandated under the SI template therefore there are some minor variations in land use tables.
- There are three types of clauses provided in the SI template: ‘mandatory’, ‘optional’ and ‘local’. Mandatory clauses must be used and cannot be changed. Optional clauses are discretionary and can therefore be used depending on their relevance to the local government area. Local clauses are those inserted by Council to address local matters.

The local clauses and land uses of the draft Tweed LEP 2012 have been derived from a number of Council adopted strategies, plans and policies, including:

- (1) Certain sections of Tweed Development Control Plan (DCP) 2008, in particular:
 - Section A1 – Residential and Tourist Development Code. This Section defines development standards, such as height of buildings, floor space ratio and minimum lot size for certain types of development.
 - Section B20 – Uki Village. This Section provides site-specific development standards for Uki village.
 - Section B21 – Pottsville Locality Based Development Code. As above, this Section defines site specific development standards.
 - Section B23 – Hastings Point Locality Based Development Code. As above, this Section defines site specific development standards.
 - Section B25 – Coastal Hazards. This section provides the basis for the LEP Clause 7.16 Coastal Risk Planning. It seeks to address climate change and provides additional development controls along the coastal areas.
- (2) Tweed Local Environmental Plan 2000 – local clauses from Tweed LEP 2000 have been converted into the draft Tweed LEP 2012 where not inconsistent with objectives of the mandatory clauses of the SI template.
- (3) Community Based Heritage Study. The Tweed Community Based Heritage Study (CBHS) was commissioned to investigate and record items of heritage significance within the Tweed Shire and to develop policies and procedures for the management of these items for both Council and local residents. Whilst based on the Tweed Local Environmental Plan (LEP) 2000, the CBHS provided information and recommendations for the draft Tweed LEP 2012. Council adopted the CBHS including the list of recommended heritage items and conservation areas at the meeting of 21 August 2012 and resolved to amend the LEP to include those items and areas within the heritage schedule. Heritage items and conservation areas are listed in Schedule 5 of the draft LEP and marked on the LEP Heritage Mapping layer.

- (4) Tweed Community Strategic Plan. The 2011/2021 Tweed Community Strategic Plan (CSP) identifies the community's priorities and directions for the Tweed for the next 10 years. It identifies themes and broad objectives, to deliver strategies and objectives in response to key issues arising for the Tweed in the coming decade. The CSP defines the draft Tweed LEP as an effective statutory framework to meet the needs of the Tweed community.
- (5) Tweed Vegetation Management Strategy 2004. Council's current framework for environmental protection is based on the Tweed Vegetation Management Strategy 2004, a document which aims to promote ecologically sustainable management practices and to encourage the protection of biological diversity in the Tweed. The original Strategy had been developed for implementation into a planning framework that has become outmoded by the Standard Instrument. Considerable work has been undertaken to prepare a draft Revised Strategy however given the time constraints and significant stakeholder engagement required to allow a full and comprehensive understanding of the changes it is not proposed to use these at this time. Notwithstanding this a package of supplementary clauses and overlay maps has been introduced into the LEP to achieve an environmental outcome as closely aligned with Council policy as is possible.

3.3 Exceptions from the guiding principles

There are instances where a "best fit" approach could not be applied for various reasons:

- (1) The SI Template does not provide a directly compatible zone for certain Tweed LEP 2000 zones. In such instances, land has been zoned to reflect the existing development or use of the land. An example is the 3(d) Waterfront Enterprise zone in Chinderah, which has been zoned both B4 Mixed Use or IN1 General Industrial depending on current development and use of the land. It is to be noted that development of dwelling houses is permitted with consent under the current LEP 3(d) Waterfront Enterprise zone, but will be prohibited under the new B4 and IN1 zones.
- (2) The SI LEP provides a directly compatible zone but certain areas have been zoned to better reflect the existing development or use (~393 sites). The majority of sites within this category are currently zoned 2(c) Urban Expansion or 1(a) Rural. The current Tweed LEP 2000, provides a broad range of permissible land uses within these two zones; however, the corresponding zones in the draft LEP 2012 (R1 and RU2 respectively) are more restrictive, therefore the standard translation in these cases could not be applied. As a result, certain sites zoned 2(c) have been rezoned RE1, RE2, R2, B1 or B4 in accordance with the existing use of land. Generally where land zoned for urban expansion has already been developed, these sites have been zoned accordingly, for example low density residential uses are now zoned R2 Low Density Residential to reflect the actual use of the land. A few sites zoned 1(a) have likewise been zoned RE1, RE2 or RU5.

- (3) Ongoing improvements to Council's cadastral database have resulted in a shift of a large number of property boundaries to reflect the actual ground location on Council's mapping. This has resulted in a change to the location of zone boundaries as they appear on Council's mapping, but does not mean that the registered boundaries of a property has changed. In addition, where small insignificant parcels of land were zoned the same as an adjoining landuse; the zone boundary was also adjusted consistent with the property boundary
- (4) 5(a) Special Uses under the Tweed LEP 2000 does not have an equivalent zone and a range of minor infrastructure sites, including schools, community facilities and car parks must now be included in a range of alternative zones in accordance NSW Department of Planning & Infrastructure guidelines (Practice Note 10-001 *Zoning for Infrastructure in LEPs*). Major infrastructure sites like cemeteries or waste water treatment plants are to remain zoned SP2 Infrastructure. Extensive consultation with Council's Water Unit resulted in a decision to zone Clarrie Hall Dam site and a part of the Tweed River up the Bray Park Weir as SP2 Special Infrastructure.
- (5) 2(e) Residential Tourist and 2(c) Urban Expansion do not have an equivalent zone in the SI Template and a number of sites are zoned in accordance with the landuse identified in approved masterplans prepared for these sites. Certain areas in Kingscliff subject to the *Seaside City Masterplan* have been zoned in this way (~41 sites).
- (6) The standard conversion of zones could not be applied for certain privately owned areas zoned 6(a) Open Space in the LEP 2000. Under the provisions of the LEP 2000, privately owned land zoned 6(a) is identified for acquisition, however *owners can* still develop the land in accordance with the land use table and other relevant provisions of the LEP 2000. The SI template however, requires that each land zoned for public recreation (the SI replaces zone 6(a) Open Space with the RE1 Public Recreation zone) must be mapped on the Land Acquisition Map and no development consent can be granted until such land is acquired by Council. As a result, certain privately owned land zoned 6(a) in the LEP 2000 has been zoned with the most suitable adjoining zone. Seven (7) allotments have been zoned (partially or entirely) under this exception. It is noted that certain privately owned allotments adjoining Tweed River in South Murwillumbah are subject to a voluntary acquisition plan and as such have been left zoned RE1 Public Recreation.

3.4 Internal consultation

The draft Tweed LEP 2012 has been prepared by Council's Planning Reforms Unit with extensive consultation and assistance of the following Council units:

- Recreation Services Unit – in regards to areas zoned for public open space;
- Planning and Infrastructure Unit – stormwater management aspects, flood planning and floodplain risk management clauses;
- Water Unit – in regards to zoning of certain infrastructure sites, existing and future water storage facilities clause and map and water catchment;
- Natural Resources Management Unit. The NRM Unit provided data for the biodiversity map and the steep land map;

- Legal Services officers from the Design Unit – zoning of certain allotments which boundaries are defined by the Medium High Water Mark level, Schedule 4 of the LEP (Classification and Reclassification of Public Land); and
- Development Assessment Unit – provided valuable comments on various matters throughout the entire LEP drafting process.

3.5 External consultation

The draft Tweed LEP 2012 has been prepared in line with Practice Notes, Guidelines and Section 117(2) Directions prepared and published by the Department of Planning & Infrastructure.

Given the complexity of the conversion, there were a number of issues that required specific collaboration and zoning resolution with the DP&I regional office as follows:

- Zoning of the Kings Forest site (discussed in part 4.5 of this Report),
- Existing and future water storage facilities clause 7.12 and associated map,
- Drinking water catchment clause 7.10
- Council infrastructure development clause 7.3.

It is noted that the draft LEP written document has been widely consulted with the DP&I in August and September 2012.

Clause 5.1 of the LEP (Relevant acquisition authority) and the associated map have been consulted with NSW Roads and Maritime Services.

In 2011 Council engaged consulting company GHD to assist with the conversion zones and clauses of the LEP 2000 into the SI template and to review and incorporate the State policy and legislative changes since the draft LEP 2010 public exhibition.

4. KEY THEMES

4.1 Environmental protection

Environmental protection provisions in the draft Tweed LEP 2012 are formed by a complementary package of clauses and zones. As discussed, it was initially intended to implement the TVMS, however as previously highlighted there remains a significant community and landowner consultation phase to allow due consideration and endorsement of a revised environmental strategy by Council.

As outlined below, the environmental protection provisions in the draft Tweed LEP 2012 have been based on the TVMS 2004, Coastal Hazard DCP, Tree Preservation DCP and the Tweed LEP 2000. Overall, all clauses reflect existing Council practice and provide a framework for the Council and the community to understand how development may fit within the natural environment.

The draft Tweed LEP 2012 utilises a set of three environmental zones: E1 National Parks and Nature Reserves, E2 Environmental Conservation and E3 Environmental Management. The zone comparison table attached to this report (Attachment 3) provides an explanation of how the existing Tweed LEP 2000 zones were translated. In certain zones, particular land uses have been restricted or development standards are used to achieve environmental outcomes.

Overview of clauses focused on environmental protection:

Clause 7.8 Biodiversity

This clause aims to maintain biodiversity by protecting native fauna and flora, ecological processes necessary for their continued existence and to encourage the conservation and recovery of native fauna and flora and their habitats. This clause is based on Clause 28 of the Tweed LEP 2000 and on the Tweed Vegetation Management Strategy 2004. It applies to areas shown on the LEP Biodiversity Map.

Clause 7.9 Steep Land

The steep land clause aims to identify and protect soils on steep land in the rural areas of Tweed Shire, protect the rural character whilst continuing to enable rural land to be used for agriculture, forestry and natural resource utilization. This clause is based on Clause 26 of the Tweed LEP 2000 and on the Tweed Vegetation Management Strategy 2004. It applies to areas shown on the LEP Steep Land Map.

Clause 5.9 Preservation of trees or vegetation

Clause 5.9 of the draft Tweed LEP 2012 aims to preserve the landscape qualities of the Shire, including biodiversity values, through the preservation of trees and other vegetation. This clause provides a linkage between the LEP and a Tree Preservation Development Control Plan (DCP) which has been prepared by Natural Resources Management Unit and is recommended to be placed on exhibition concurrently with the draft Tweed LEP 2012.

Clause 7.10 Drinking water catchment

A drinking water catchment is an area of land where rainfall collects in rivers, streams, flows into reservoirs, or seeps into the soil to become groundwater which then becomes drinking water for the community. Some land uses and activities within drinking water catchments may impact on the quality of this water. The drinking water catchment has been identified and shown on the 'Drinking Water Catchment' map of the draft Tweed LEP 2012. Clause 7.10 of the draft LEP 2012 outlines how drinking water catchments are to be protected from the impacts of development.

Clause 7.14 Stormwater management

The stormwater management clause (7.14) outlines how development is to be designed to minimise impacts on water quality.

Clause 7.11 Earthworks and drainage

Under the Tweed LEP 2000 consent is required in all zones for *any other buildings, works, places or land uses not included* elsewhere in the land use table. Unless it was of a minor nature earthworks and drainage were considered as a form of *works*, thus requiring consent in all zones. The SI template does not permit such land uses in a similar manner. Instead, earthworks and drainage are proposed to be regulated under the local clause 7.1.

Clause 7.1 Acid Sulfate Soils

When acid sulfate soil (ASS) is disturbed, it can kill vegetation, acidify groundwater and water bodies, kill fish and other aquatic organisms and cause concrete and steel structures to fail. Acid sulfate soils have different classifications which require different management solutions during excavation, depending on the depth of excavation and the type of soils. Land that may be affected by acid sulfate soils is shown on the 'Acid Sulfate Soils' maps and the management methods are outlined in Clause 7.1 of the draft Tweed LEP 2012.

Clause 7.16 Coastal risk planning

Clause 7.16 Coastal risk planning is based on Council's Development Control Plan Section B25 – Coastal Hazards. It seeks to address climate change and provides additional development controls along the coastal areas.

Tweed DCP Section A16 Trees and Vegetation Preservation Code

The Trees and Vegetation Preservation Code aims to protect the biodiversity, amenity and cultural values of the Tweed Shire through the preservation of trees and vegetation. It also provides a process for identifying, listing and preserving trees of ecological, heritage, aesthetic and cultural significance.

This Section of the DCP should be read in conjunction with Tweed LEP 2012, in particular with:

- Clause 5.9 Preservation of trees or vegetation
- Clause 5.9AA Trees or vegetation not prescribed by development control plan
- Clause 5.10 Heritage conservation
- Clause 5.11 Bushfire hazard reduction
- Clause 7.8 Biodiversity

It is noted that in case of any inconsistencies between this Section and the Tweed LEP 2012, provisions of the Tweed LEP 2012 shall prevail.

Other environmental planning instruments and strategies

There are a number of SEPPs applicable to Tweed, with which the draft LEP 2012 must be consistent, including: SEPP 14 - Coastal Wetlands, SEPP 26 - Littoral Rainforests, SEPP 44 - Koala Habitat Protection, SEPP 71 - Coastal Protection.

The preparation of the draft Tweed LEP 2012 is also required to be consistent with provisions of the Far North Coast Regional Strategy (FNCRS). Consistency with the FNCRS is addressed under part 5 of the Section 117 Directions assessment, in Attachment 4 to this report.

Recent State Government advice on the E2 and E3 zones

On 20 September 2012 the DP&I published a media release on the application of the E2 and E3 environmental zones on the North Coast. The media release states the Department's "*will not endorse the use of the E2 and E3 environmental zones on land that is clearly rural in council local environmental plans (LEPs) on the Far North Coast.*" This is in response to a number of councils seeking to expand the application of the E2 and E3 zones through the SI template LEP preparation.

The draft Tweed LEP 2012 does not seek to apply any additional environmental zones. The draft LEP 2012 has translated current environmental zones to the corresponding SI template E1, E2 or E3 zone. It is therefore considered that the draft LEP is consistent with the Department's new environmental approach.

The draft Tweed LEP 2012 mapping is to be referred to the DP&I as soon as ready to confirm this approach to the zoning translation, rather than application of new environmental areas is acceptable.

4.2 Minimum lot size for rural land

The current minimum lot size standards for rural land have been transferred unchanged to the draft Tweed LEP 2012. Minimum lot size for rural land was one of the most frequently raised concerns during the exhibition in 2010, with submissions seeking to both allow subdivision of rural lands and to prohibit such subdivision. The current provisions, which generally allow one dwelling house per 40 hectares of rural land, or in certain areas one dwelling per 10 hectares are considered to be out of step with the actual rural subdivision sizes and initially were applied as a temporary measure, subject to further rural land assessment. Notwithstanding, any changes to these provisions should be based on a comprehensive rural land strategy, which Council has commenced and anticipates to be finalised within the next 12 months. It is expected that the strategy will, based on land capability and a range of agricultural and needs assessment, provide a framework and recommendations for future amendments to the rural zones and development standards in the stage 2 review of the LEP.

4.3 Local inclusions

The local inclusions of the draft Tweed LEP 2012 have been broadly discussed under part **3.2 Guiding principles**. In summary, local inclusions have been derived from a number of Council adopted strategies, plans and policies, including:

- Sections of the Tweed Development Control Plan 2008;
- Tweed Local Environmental Plan 2000;
- Community Based Heritage Study 2012;
- 2011-2021 Tweed Community Strategic Plan; and
- Tweed Vegetation Management Strategy 2004.

4.4 Development standards

The draft Tweed LEP 2012 includes new definitions for building height and floor space ratio as required by the SI template. Whilst height was previously controlled by storeys, it is now a development standard with a maximum height prescribed in metres. Height of building controls, which are defined on the Height of Building Map of the LEP, are based on relevant

sections of the Tweed DCP. It is noted that the draft Tweed LEP 2012 must be read in conjunction with Section A1 of the Tweed DCP when considering residential or mixed use buildings in any zones where these developments types are permissible.

The floor space ratio development standard has been applied to the majority of land within the Shire zoned as residential, commercial or industrial. Council's floor space ratio requirements included in the Tweed DCP 2008 have been translated for residential sites and best practice guidelines have been used for other zones within shire.

4.5 Major development sites

Two major development sites, Bilambil Heights "The Rise" and Kings Forest are managed by the DP&I through the Major Development State Environmental Planning Policy (SEPP) 2005. For these two sites the provisions of the Major Development SEPP override the provisions of the Tweed LEP (both the existing LEP 2000 and the draft LEP 2012). The SEPP provisions regarding these two sites vary slightly: while the SEPP clearly states that for "The Rise" site the local LEP does not apply, the Kings Forest site is subject to both the Tweed LEP and the SEPP, however, in case of any inconsistency, the provisions of the SEPP will prevail.

To avoid inconsistent or duplicated provisions, it is recommended the Kings Forest site be unzoned with no minimum lot size standards applied. "The Rise" site is (temporarily) excluded from the draft LEP. This recommendation has been discussed with, and supported by, the DP&I.

Once fully developed, these two sites will be removed from the Major Development SEPP and will become subject to all provisions of the Tweed LEP.

4.6 Zoning for infrastructure (including Clarrie Hall Dam and potential Byrill Creek Dam sites)

Most infrastructure zoned land was previously subject to the 5(a) Special Uses zone coloured yellow on the zoning map. Under the SI template the application of the SP2 Infrastructure zone does not directly correlated with the 5(a) Special Uses zone and consistent with the DP&I directions, much of the infrastructure land is proposed to be zoned to match the adjacent zone. For example a school next to an R2 Low Density Residential zone will be zoned R2 Low Density Residential.

When applying zoning for the infrastructure sites, Council was required to consider whether the infrastructure type is permitted in a prescribed zone within the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). In most instances the Infrastructure SEPP permits the existing infrastructure type and therefore the land is to be zoned to match the adjacent land use zone. Only infrastructure land that is highly unlikely to be used for a different purpose in the future has been zoned SP2 Infrastructure. For example, cemeteries and sewage treatment plants have been zoned SP2 Infrastructure.

In addition, Clarrie Hall Dam and Tweed River at Bray Park Weir have been zoned SP2 Infrastructure. The current clause 52 of the LEP 2000 which identifies existing and potential sites for water storage facilities has been carried over into the draft Tweed LEP 2012 as a local clause.

4.7 Zoning of waterways

Under the current Tweed LEP 2000 water bodies are generally unzoned (or zoned with one of the environmental zones). The Standard Instrument requires that all waterways (and all unzoned lands in general) be zoned and provides a range of three water-based zones. All waterway zones have been used in the draft Tweed LEP 2012, using the following methodology, based on relevant State guidelines:

The W1 Natural Waterways zone has been applied to natural waterways that should be protected for their ecological and scenic values. A limited number of low impact uses that do not have an adverse effect on the natural value of the waterway are permitted in this zone.

The W2 Recreational Waterways zone is an open zone which allows for water-based recreation, boating and water transport, and development associated with fishing industries, such as natural water-based aquaculture and recreational fishing. Terranora and Cobaki Broadwater and the lower parts of the Tweed River and the Terranora Creek have been zoned W2.

The W3 Working Waterways zone is intended for waterways that are primarily used for commercial shipping, ports, water-based transport, maritime industries and development associated with commercial fishing industries. Tweed River at Tweed City Centre has been zoned with this zone.

4.8 Heritage

In 2011 Council exhibited the draft Community Based Heritage Study (CBHS). This study provides a range of heritage management guidelines and recommendations relating to European Heritage. The CBHS recommended the listing of an additional four heritage conservation areas and 124 heritage items.

In August 2012 Council resolved to endorse the CBHS and to prepare an amendment to the LEP to list the recommended heritage items and conservation areas within the Heritage Schedule of the Tweed LEP.

Given the draft LEP 2012 has been finalised at a similar time and the imminence of the exhibition, the heritage listing recommendations of the CBHS have been incorporated into the draft Tweed LEP 2012. Schedule 5 Environmental Heritage has been updated to include the heritage items and conservation areas resolved by Council in the CBHS.

The making of the Tweed LEP under the SI template will repeal the Far North Coast Regional Environmental Plan (FNCREP). The FNCREP also contains a list of heritage items, generally of regional significance. Items not currently listed in the LEP or the CBHS have also been included in the draft Tweed LEP 2012 Schedule 5 to ensure their ongoing protection.

4.9 Council owned land

As the draft Tweed LEP 2012 is a shire-wide document, with the exception of Tweed City Centre, which is subject to a separate LEP, and “The Rise” site which is subject to the Major Development SEPP 2005, it captures Council owned land. A statement on Council owned land has been prepared which outlines changes to the zoning and discusses any financial implications, consistent with the requirements of the *LEPS and Council Land Best Practice Guideline, 1997* and will be placed on exhibition.

4.10 Tweed City Centre LEP

Tweed Shire Council in collaboration with the Department of Planning’s City Centre Taskforce has prepared a separate LEP for Tweed City Centre, which is also supported by a new Development Control Plan and Vision Document. These Plans were considered and adopted at Council’s December 2011 meeting.

The Draft LEP has been forwarded to the NSW DP&I for the Plan to be made. The Plans will not formally take effect under the Environmental Planning and Assessment Act 1979 until published on the NSW legislation website.

The draft LEP 2012 excludes the land subject to the Tweed City Centre LEP.

5. IMPLICATIONS OF THE DRAFT TWEED LEP 2012

Mandatory clause 1.8 of the LEP Standard Instrument states that all local environmental plans and deemed environmental planning instruments (EPIs) applying to the land to which this plan applies are repealed. As such, the current Tweed LEP 2000 and the North Coast Regional Environmental Plan 1988 (a deemed EPI) will cease to apply to Tweed LGA upon making of the Tweed LEP 2012.

Mandatory clause 1.9 of SI template provides that the following State Environmental Planning Policies will cease to apply to Tweed LGA upon making of the Tweed LEP 2012:

- *State Environmental Planning Policy No 1—Development Standards,*
- *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* (clauses 6 and 10 and Parts 3 and 4),
- *State Environmental Planning Policy No 60—Exempt and Complying Development.*

Section A10 – Exempt and Complying Development of the Tweed Development Control Plan will become redundant after making of the Tweed LEP 2012. Exempt and complying development will be dealt with under relevant State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and Schedules 2 and 3 of the LEP. A separate report will be submitted to Council with recommendation to remove Section A10 from the DCP following making of the Tweed LEP 2012.

It is noted that the introduction of the LEP under the SI Template will provide a consistent format for all LEPs in NSW. It will enable DP&I to update mandatory and optional provisions (clauses, definitions, zone objectives, mandatory land uses) consistently and simultaneously in all LEPs.

Compulsory clause 5.9(8) of the draft Tweed LEP 2012 (*Preservation of Trees or Vegetation*) allows for clearing of native vegetation in certain zones (being zones other than E2, E3 and R5 Large Lot Residential), when authorised under certain provisions of the Native Vegetation Act 2003:

- Clearing authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or
- Clearing that is otherwise permitted under Division 2 or 3 of Part 3 of the Native Vegetation Act 2003 (clearing for routine agriculture management activities is permitted under this exemption).

To mitigate the impact this clause may have on areas of high conservation status (but zoned other than E2, E3 and R5) it is recommended that a revised environmental strategy be prepared with specific recommendations regarding appropriate zoning of such areas.

6. PUBLIC EXHIBITION

The revisions to the draft Tweed LEP 2012 update the LEP consistent with legislative changes and State government policy directions and incorporate suitable amendments arising from submissions received since the previous public exhibition in 2010.

The changes to the draft LEP 2012 are considered sufficiently significant to warrant re-exhibition of the draft plan. It is proposed that the draft Tweed LEP 2012 be publicly exhibited for a minimum 28 day period. This is to be extended to accommodate the holiday December / January period should this occur over Christmas.

A communication plan for the draft Tweed LEP 2012 has been prepared to guide the public exhibition process. During the exhibition period Council officers will carry out a number of public information sessions, similar to the first exhibition, as outlined in the Communication Plan.

Once the exhibition of the draft Tweed LEP 2012 is finished, a further report detailing all submissions, will be submitted to Council. As the post-exhibition period is scheduled to take place in early 2013, the draft LEP will be renamed Tweed LEP 2013 for finalisation.

Following Council's endorsement of the final draft LEP the plan is submitted to the DP&I for making. It is noted that the DP&I may recommend that the Minister for Planning and Infrastructure make changes before making the LEP. These changes may be either minor wording changes to ensure that the draft LEP is legally correct or more significant changes relating to the content of the draft LEP.

It is also important to note that the Department are currently undertaking a review of the Environmental Planning and Assessment Act, 1979 and the method of preparing and exhibiting LEPs as well as other strategic policy may change as a result.

OPTIONS:

1. That the draft LEP 2012 be publicly exhibited for a minimum 28 days; or
2. That the draft LEP 2012 report be deferred pending further information and/or Council workshop.

CONCLUSION:

The draft Tweed LEP 2012 has been drafted in accordance with the provisions of *Environmental Planning and Assessment Act 1979* and relevant guidelines published by the Department of Planning & Infrastructure, with localised context derived from Council's adopted strategies and plans. The methodology for review of the LEP, all key themes and the implications of the endorsement of the LEP have been addressed in detail within earlier sections of this report.

Given the tight deadlines imposed by the Department of Planning & Infrastructure, and the fact that this is the second public exhibition of the LEP, it is recommended the plan be exhibited for a minimum 28 days.

COUNCIL IMPLICATIONS:

a. Policy:

The translation of the draft LEP 2012 into the SI template format will standardise the provisions of the LEP consistent with the DP&I requirements.

b. Budget/Long Term Financial Plan:

Public exhibition of the draft Tweed LEP 2012 is included in the current Planning Reform budget. There are no long term financial implications arising from this plan.

c. Legal:

Yes, legal advice has been received in relation to certain privately owned allotments adjoining the Tweed River in Chinderah and Condong where boundaries have been determined by the Mean High Water Mark.

d. Communication/Engagement:

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

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection.
- 1.5.1 Council supports strategic decisions of previous councils and the NSW Government for the Tweed Shire population increase in accordance with the Far North Coast Regional Strategy.
- 1.5.4 The Tweed Local Environmental Plan will be reviewed and updated as required to ensure it provides an effective statutory framework to meet the needs of the Tweed community.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1 Draft Tweed LEP 2012 – Written Instrument (ECM 57647030)

Attachment 2 Submissions Assessment Table (ECM 57647046)

Attachment 3 Zone Comparison Table (ECM 57647057)

Attachment 4 Section 117 Directions Assessment (ECM 57647066)

Attachment 5 Draft Tweed Development Control Plan (DCP) Section A16 Trees and Vegetation Preservation Code (ECM 57699288)

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12 [PR-CM] Development Application DA03/0476.02 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to include a Refreshment Room & Extend Trading Hours on Saturdays including the Option of Live Music at Lot

SUBMITTED BY: Development Assessment

FILE NUMBER: DA03/0476 Pt4



Civic Leadership

SUMMARY OF REPORT:

This matter was previously reported to the Council Meetings of 17 July 2012 and 21 August 2012.

The officers' reports identified concerns in relation to the car parking issues relating to the use of the site, structures within the road reserve, trading hours, live music and signage.

On 21 August Council resolved as follows:

“Council defers Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 to provide the applicant with the opportunity to submit further details in response to Council’s current compliance concerns, and that the officers submit a further report to Council’s October meeting.”

A meeting has since been held with the applicant’s planning consultant to discuss issues such as acoustic requirements, engineering details for the existing structures within the road reserve and other outstanding compliance matters.

No detail has yet been provided on the acceptance of the proposed car parking option put forward by Council’s Engineering and Operations Division at the August Council Meeting. The applicant has advised that they are still waiting on confirmation from Telstra on matters in relation to the relocation of the existing Telstra pit where the car parking is proposed within the road reserve. The applicant has engaged the services of an engineer with respect to the existing structures within the road reserve. No further detail has been provided in this regard to date. The applicant has also obtained a quote for the construction of the proposed parking option (without the relocation of the Telstra pit).

In addition, the applicant has stated that they have ceased using the outdoor dining area (currently required for car parking) and they have ceased live music performances on Sundays. In addition, one existing sign has been removed.

This addendum report has therefore been prepared to seek further direction from the Councillors on how to proceed with the matter. Options include: deferring the matter for further investigation or to reconsider the Council officer’s previous recommendation for the refusal of the Section 96 amended application DA03/0476.02.

RECOMMENDATION:

That:

- A. Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head be refused for the following reasons:**
- 1. The proposed modification is not considered to be consistent with the provisions of Clause 8(1)(c) of Tweed Local Environmental Plan 2000, in that the deletion of onsite parking provisions would have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.**
 - 2. The proposed modification is not considered to be in accordance with the provisions of Council's Development Control Plan Section A2 – Site Access and Parking Code, in that onsite parking provisions are not being maintained.**
 - 3. The proposed modifications are considered not to be in the public interest, with regard to the precedent the proposal would set if parking requirements were removed.**
 - 4. The proposed modification to extend trading hours is not supported, given the non-compliance with existing approved trading hours.**
 - 5. The proposed modification to use the approved parking area for alternate uses is not supported, in that the area is required for on site car parking purposes.**
- B. The applicant is formally advised in writing that:**
- The three approved car spaces are to be reinstated on site;**
 - The use of live music on a Sunday is to cease;**
 - The development must comply with existing approved trading hours;**
 - A Section 138 application must be submitted to Council for approval within 60 days of the date of the written notification in relation to all structures within the road reserve;**
 - A development application must be submitted within 60 days of the date of the written notification in relation to all signage associated with the development.**

REPORT:

Applicant: Ms A McKay
Owner: Mr Richard B Steenson
Location: Lot 2 DP 575934; No. 17 Bambery Street, Fingal Head
Zoning: 2(a) Low Density Residential
Cost: Not Applicable

BACKGROUND:

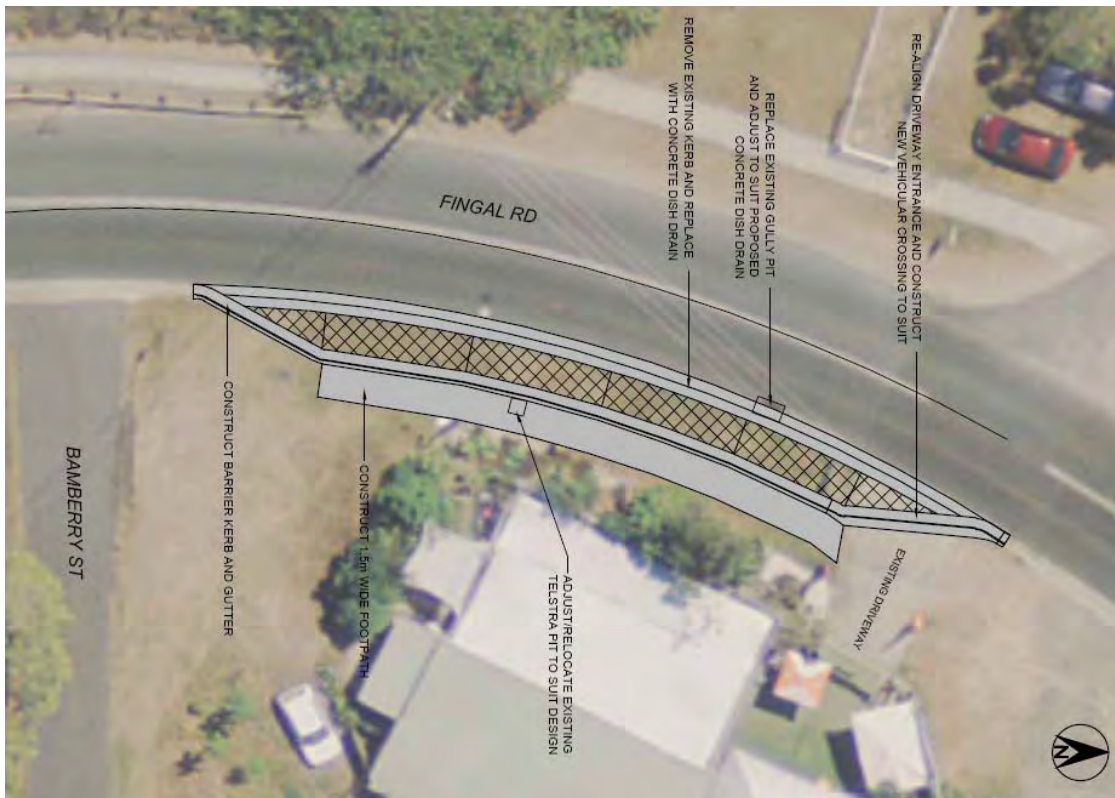
As noted in the previous reports on this matter to Council's meeting of 17 July 2012 and 21 August 2012 (please refer to a copy of these reports in Attachment 1 and Attachment 2), the Section 96 application seeks the following:

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

In accordance with the Council's resolution of the July meeting, a workshop was held on Tuesday 31 July 2012 to discuss this matter further, between the Councillors, Council's staff and the applicant. Issues raised at the workshop related to: staff parking; customer parking; structures within the road reserve; trading hours; and live music.

Further to the Councillors Workshop, Council's Engineering and Operations Division considered a series of options for providing car spaces for the current restaurant use on adjoining and adjacent public areas. Council's preferred option was that the spaces be provided in the road reserve adjoining the frontage of the subject site along Fingal Road, as shown in Figure 1 below.

Figure 1: Possible location for customer parking



The above option was forwarded to the applicant for consideration as a way forward to resolve the parking compliance issues, with the applicant being required to commit to the payment of the construction of these spaces and associated road works.

The applicant's response to the above option made it evident that an acceptable alternative to the current car parking issue affecting the operation of the current restaurant use was yet to be resolved.

Given the need to address a number of more immediate compliance issues, further direction from Council was sought on a preferred way forward at the August 2012 Council Meeting. The two options put forward to Council were:

OPTION 1

That the application be refused for the following reasons:

- 1. The proposed modification is not considered to be consistent with the provisions of Clause 8(1)(c) of Tweed Local Environmental Plan 2000, in that the deletion of onsite parking provisions would have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*
- 2. The proposed modification is not considered to be in accordance with the provisions of Council's Development Control Plan Section A2 – Site Access and Parking Code, in that onsite parking provisions are not being maintained.*
- 3. The proposed modifications are considered not to be in the public interest, with regard to the precedent the proposal would set if parking requirements were removed.*
- 4. The proposed modification to extend trading hours is not supported, given the non-compliance with existing approved trading hours.*

5. *The proposed modification to use the approved parking area for alternate uses is not supported, in that the area is required for on site car parking purposes.*

It was also recommended that the applicant be formally advised in writing that:

- *The three approved car spaces are to be reinstated on site;*
- *The use of live music on a Sunday is to cease;*
- *The development must comply with existing approved trading hours;*
- *A Section 138 application must be submitted to Council for approval within 60 days of the date of the written notification in relation to all structures within the road reserve;*
- *A development application must be submitted within 60 days of the date of the written notification in relation to all signage associated with the development.*

OR

OPTION 2

This matter be deferred to provide the applicant with the opportunity to submit further details in response to Council's current compliance concerns, and that the officers submit a further report to Council's October meeting.

The Council meeting of 21 August 2012 resolved that:

“Council defers Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 to provide the applicant with the opportunity to submit further details in response to Council’s current compliance concerns, and that the officers submit a further report to Council’s October meeting.”

UPDATE OF ACTIONS SINCE COUNCIL MEETING OF 21 AUGUST 2012:

A meeting was held on 30 August 2012 with the applicant’s planning consultant, whereby Council staff were advised that: an acoustic engineer had been contacted with regard to the preparation of an acoustic report; a quote was being obtained for the construction of the proposed parking option in the road reserve at the front of the premises; and that Telstra had been contacted regarding the re-location of the Telstra pit in the road reserve.

The following issues were raised during and after the meeting:

- In terms of the acoustic report, it was clarified that an acoustic report would need to be submitted for Council staff to consider live music being extended to Sundays. The acoustic report needed to address such matters as: the type (acoustic or amplified playing); location of any performance; maximum numbers attending the performance; and an assessment of the associated environmental impact. It was also confirmed that live music also included recorded material;
- Further details to be submitted to Council included a request to amend Condition 23 (live music) and the need to identify the location within the site for live music performances (which is currently not covered by the outdoor dining licence agreement);
- With regard to engineering details for the proposed parking option, potential sight line issues were discussed. Council’s Traffic Engineer has since advised that there is not likely to be an issue with sight lines from Bamberry Street in relation to the proposed parking option. However, there may be a continuing issue with sight lines in relation to the existing fence line and surrounding vegetation;

- Specifications for the engineering details required in respect of the existing structures within the road reserve were provided by Council staff. The structures will be dealt with separately under a Section 138 application.
- An additional Section 138 application would also be required for the proposed parking option within the road reserve (assuming that option is agreed upon);
- It was confirmed that no further traffic assessment would be required with regard to the proposed parking option – the details provided by Council's Engineering and Operations Division are considered to be sufficient;
- Condition 3 of the consent requires a separate development application for signage. If signage is proposed under the current Section 96 application, Condition 3 will need to be modified/deleted;
- Condition 5 (customer seating) will need to be modified/deleted if the existing parking areas are proposed to be used for customer seating associated with the refreshment room; and
- Condition 10 (carparking requirements) will also require modification if the proposed parking option is adopted.

The applicant's planning consultant was also advised on 18 September 2012 of additional bathroom facilities that may be required in accordance with the Building Code of Australia (BCA), if the applicant wished to increase the area of customer dining area. It was at this point that Council staff requested an estimated timeframe for the lodgement of all outstanding information in relation to the Section 96 and compliance matters.

The applicant's planning consultant noted on 18 September 2012 that they could not provide advice on when the details would be submitted as they had a...*'number of outstanding items. In particular these include advice from Telstra concerning the re-location of the Telstra pit to accommodate the proposed parking and advice from the Building Inspectors on how the structures within the road reserve will be dealt with in terms of the BCA.'*

Council's Building Unit provided the applicant's planning consultant with information relating to the structures' BCA compliance and the BCA requirements for toilet facilities relating to restaurants on 20 September 2012.

The applicant's planning consultant was again requested on 3 October 2012 to provide an estimated timeframe for the lodgement of all outstanding information, so that the details could be assessed and reported to the October Council meeting, in accordance to the resolution of the August Council meeting.

The applicant formally replied on 5 October 2012, advising the following:

"In response to the email...dated 3 October 2012 re submitting further details in response to the Council resolution dated 21 August 2012.

Following that decision by Council I have

- *Requested from Telstra their costs and requirements for the re-location of the Telstra pit. This was requested on 28 August 2012 and to date no response has been received.*
- *Engaged an engineer to advise me in respect of the structures in the road reserve, and the proposed parking area (including any necessary survey work).*
- *Sought and obtained a quote for the construction of the parking area (without the re-location of the Telstra pit).*

- Ceased using for outdoor dining the area required by my development consent for parking.
- Ceased live music performance on Sundays.

You will appreciate that I have been actively engaged in undertaking the necessary work to respond to Council. However, as might be expected by the nature of the issues, it is taking a little time to collect all of the necessary information. The timing of the response from Telstra is also out of my control.

I will keep you informed as to progress on outstanding issues."

In addition to the above, the applicant also advised on 5 October 2012 that an existing (unauthorised) sign at the front of the site has been removed.

The previous Council reports have highlighted that in addition to the application being recommended for refusal (based on the information on file at the time), several compliance matters remained outstanding. These were in relation to:

- The three approved car spaces being reinstated on site;
- The use of live music on a Sunday ceasing;
- The development complying with existing approved trading hours;
- A Section 138 application must be submitted to Council for approval within 60 days of the date of the written notification in relation to all structures within the road reserve;
- A development application must be submitted within 60 days of the date of the written notification in relation to all signage associated with the development.

It is noted that whilst the applicant has requested further time to collate all necessary information, some of the outstanding compliance matters have been addressed to some degree. That is:

- The use of live music on a Sunday appears to have ceased (see Figure 2 below);
- The development appears to now be complying with existing approved trading hours (see Figure 2 below); and
- One of the unauthorised signs has been removed (see Figure 3 below).



Figure 2: Trading Hours



Figure 3: Signage removed

However, the issue of car parking remains outstanding, with the three approved car parking spaces still being occupied by table and chairs (see Figure 4 below).



Figure 4: Customer seating in approved parking area

With regard to the customer seating, the applicant has erected a sign advising customers that the area is not for dining...*'unless you walked or cycled here'*, as shown in Figure 5 below. This information is incorrect. Condition 5 states:

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



Figure 5: Signage for customer seating

As such dining of any sort in the approved parking area is not permitted, whether customers arrive by car, bike or by foot.

Figure 5 above also shows a sign that advises customers that beverages can be consumed in the designated parking area. Council officers are of the opinion that seating for beverages is a form of dining, which is prohibited. In any case, Condition 5 clearly states that seating for the “refreshment room” is not permitted. The existing café is defined as a refreshment room. Therefore, the area should not be used for customer seating and the required three car parking spaces should be reinstated on the subject site until such time that an alternative car parking arrangement is approved.

In terms of staff parking, it does not appear that vehicles are being parked across the road anymore. However, the designated staff parking at the rear of the site does not appear to be used either. Rather, it seems that staff vehicles are being parked in the road reserve to the south of the premises, as shown in Figure 6 below.



Figure 6: Vehicle Parking

In addition, Council is yet to be advised by the applicant as to whether the proposed parking option is accepted.

Whilst it is acknowledged that the applicant appears to be slowly working towards the finalisation of the outstanding matters, it should be noted that the non-compliant parking issue was raised in June 2011 with a subsequent Section 96 application being lodged in June 2012, and little progress being made to date. Without any further information to base an assessment upon, the previous reasons for refusal remain outstanding.

Further direction from Council is sought on a preferred way forward.

OPTIONS:

1. That Council supports the officer's recommendation for refusal from 17 July 2012 meeting; or
2. That Council supports deferral of the matter, to provide the applicant with further opportunity to submit further details in response to Council's current compliance concerns, and that the officers submit a further report to Council's November meeting.

CONCLUSION:

As highlighted in the officers' report to 17 July 2012 Council Meeting and 21 August 2012 Council Meeting, whilst the substantial community public support for the continuing restaurant operations is acknowledged, there are a number of unresolved compliance issues such as the provision of appropriate parking facilities, hours of operation and unauthorised structures which necessitate a preferred course of action from Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy - Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

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

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Copy of the original report to the 17 July 2012 Council meeting (ECM 57563553)

Attachment 2. Copy of the update report to the 21 August 2012 Council meeting (ECM 57563564)

13 [PR-CM] Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0527 Pt 1



Civic Leadership

SUMMARY OF REPORT:

Council has received a request for a Section 82A Review of Determination (RoD) for the refusal of a development application for the construction of an attached dual occupancy at Lot 21 DP 1124438, No. 27 Charles Street, Tweed Heads.

A RoD application can only be lodged and determined within six months of the original determination date, unless a Class 1 Appeal has been lodged with the NSW Land and Environment Court within six months of the date of determination. The RoD had to be determined by 19 October 2012 unless an appeal was lodged. The applicant has lodged an appeal and Council can determine the RoD. The Environmental Planning and Assessment Act requires Council to determine RoD applications where Council determined the original application. The application could not have been determined under delegated authority.

The development application proposed the construction of dual buildings that would be constructed in a mirror reverse layout. Level 1 would comprise two double garages and pedestrian entries for each dwelling; Level 2 would comprise two (2) secondary bedrooms per dwelling, laundries and bathrooms with direct access to the rear of the building; and Level 3 would comprise the master bedrooms, kitchen and living areas with balconies oriented to the east. Both dwellings would serviced by internal lifts and stairs.

A report recommending refusal of DA11/0527 was submitted to Council's meeting of 17 April 2012 as it was considered that the proposal comprised a number of non-compliances with Clause 16 of the Tweed Local Environmental Plan (TLEP) in relation to building height. It was considered that the development proposed the construction of a three (3) storey building in a two (2) storey height limit zone. A State Environmental Planning Policy (SEPP) No. 1 Objection was submitted to Council however, the objection reiterated that the development proposed two habitable levels, constructed on top of a basement garage.

It was considered that the proposed development constituted a prominent three (3) storey building in a two (2) storey height limit zone. Further, it was considered that the SEPP No. 1 Objection had failed to address this variation and that, should the development proposal be approved, it would be detrimental to the character of the surrounding area and set an undesirable precedent for similar development in the locality.

Further, the development proposed a Floor Space Ratio (FSR) of 0:80:1 as opposed to the required 0:55:1 (where attached dwellings cover more than 50% of the site). This variation to the FSR controls heightened Council's concerns in relation to the overall bulk and scale of the proposed building, in relation to the capacity of the site.

Council resolved to refuse the development application at its meeting of Tuesday 17 April 2012 for the following reasons:

1. The proposed development comprises a three (3) storey building in a zone with a two (2) storey height restriction. The proposed development does not comply with Clause 16 of the Tweed Local Environmental Plan 2000.
2. The proposed development, by reason of its three (3) storey height, is considered to be inconsistent with the majority of surrounding development in the locality, which consists predominantly of one (1) and two (2) storey buildings. The development application has failed to justify the proposed variation to the applicable development standard in relation to building height. Therefore the proposed three (3) storey building is not consistent with the aims of the State Environmental Planning Policy No. 1 (Development Standards) and the SEPP 1. Objection to vary the development standard is not well founded or justified in this instance.
3. The proposed development, by reason of its height, scale and bulk, would be inconsistent with the character and appearance of surrounding residential development, that predominantly consists of one (1) and two (2) storey residential development and, if approved, would set a harmful precedent for similar development in the locality. The proposed development would therefore be contrary to the objectives of Clause 4, Clause 8, Clause 11 and Clause 16 of the Tweed Local Environmental Plan 2000; Clause 32B and Clause 43 of the North Coast Regional Environmental Plan and the aims and objectives of the State Environmental Planning Policy (SEPP) 71.
4. The proposed development comprises variations to the Tweed Shire Council Development Control Plan (DCP) Section A1, Part B (Residential and Tourist Code) in relation to the impact of the scale and height of the proposed building on streetscape amenity, dominance of garages, sunlight access, basement garage provisions, lack of integration of internal and external outdoor space and in relation to floor space ratio for attached dual occupancy development. The proposal therefore fails to adequately comply with the Tweed Development Control Plan Section A1 Part B.
5. The Tweed Development Control Plan 2008 requires a Floor Space Ratio of 0:55:1 for an attached dual occupancy development where the dwellings cover more than 50% of the site. The development proposes a Floor Space Ratio of 0.80:1 which does not comply with the requirements of the Tweed Development Control Plan 2008.

A request for a Section 82A RoD was received by Council on 9 August 2012. In its request for a RoD the proponent has provided some amendments to the proposed development including: amended detail of levels at the front of the site; relocation of driveway crossover and driveway design; amended access stairs to basement; and amended front fence and retaining wall to screen basement entry. Additional detail has also been provided to assist Council's review of the calculation of the number of storeys in the building.

Following an assessment of the additional information against the relevant heads of consideration, it is considered that the non-compliances with Clause 16 of the TLEP remain, as do variations to the FSR controls. However, as detailed further within this report, since the determination of the original development application, the gazettal of the Draft Tweed City Centre LEP 2012 is considered to be imminent. This document establishes a height limit of 9m in this location as well as a FSR of 0:8:1, to which the development would be consistent.

It is considered unfortunate that the proponent has failed to address the concerns in relation to the impact of a three storey building on streetscape character. However it is considered that the proposal would be consistent with the objectives of the imminent Draft Tweed City Centre LEP 2012, which sets the overarching vision for development in the Tweed City area. On this basis approval of the proposal is recommended including a number of conditions of consent.

Please see the table below that summarises the consistency of the proposal with the relevant policy documentation:

Policy document	Control	Complies
Tweed LEP 2000	2 storey height limit	No – 3 storeys
DCP 2008 Section A1	9m height limit from finished ground level	Yes – building would be 9m from finished ground level
	FSR 0:55:1	No – FSR of 0:70:1
	Cut and fill	No – variation to retaining wall height & cut & fill controls
	Basement – no more than 1m above ground level	No – extends by approximately 2.3m above ground level
	Habitable room on ground level	No – car parking only
	Garages – garage doors 50% of building elevation	No – 80% building elevation
	Streetscape character, external living areas and sunlight access	Variations – concerns about scale, lack of integration with open space, opportunity for improved solar gain
	Front door facing the street	No – lack of front door at front elevation
DCP 2008 Section B2 (Tweed Heads)	2 storey maximum height limit although no specific controls	No – 3 storeys

Draft Tweed City Centre LEP 2012	9m height limit above existing ground level	Yes – approximately 7m at front of site and 2.6m at rear, from existing ground level
	FSR 0:80:1	Yes – FSR of 0:70:1
Draft Tweed City Centre DCP	2 storey maximum height limit although no specific controls	No – 3 storeys

RECOMMENDATION:

That Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads 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:
 - DA 1.02 Revision 1 (Site Plan);
 - DA 2.01 Revision 1 (Level 1 Floor Plan);
 - DA 2.02 Revision 1 (Level 2 Floor Plan);
 - DA 2.03 (Level 3 Floor Plan);
 - DA 2.04 (Roof Plan);
 - DA 3.02 Revision 1 (East Elevation, West Elevation);
 - DA 4.01 Revision 1 (Section A-A, Section D-D);
 - DA 4.02 Revision 1 (Section C-C, Section B-B);
 - DA 6.01 (Impervious area, DSZ & Landscape Concept Plan);
 - DA 3.01 Revision 1 (North Elevation, South Elevation).

All prepared by Pat Twohill Designs and dated 24 July 2012, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

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

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

[GEN0155]

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

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

[GEN0155]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. The Deep Soil Zone (DSZ) identified on approved plans shall not incorporate any hard impervious surfaces, unless otherwise approved by the General Manager or his delegate.

[GEN0285]

8. All minor elements (such as air conditioning units, aerials, satellite dishes and the like) are to comply with the controls contained within Section A1 of the Tweed Development Control Plan 2008, 'Minor Elements'.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. 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:

1.3 Trips @ \$822 per Trips **\$1069**

(\$815 base rate + \$7 indexation)

S94 Plan No. 4

Sector1_4

- (b) **Open Space (Casual):**
0.75 ET @ \$526 per ET \$395
(\$502 base rate + \$24 indexation)
S94 Plan No. 5
- (c) **Open Space (Structured):**
0.75 ET @ \$602 per ET \$452
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) **Shirewide Library Facilities:**
0.75 ET @ \$816 per ET \$612
(\$792 base rate + \$24 indexation)
S94 Plan No. 11
- (e) **Bus Shelters:**
0.75 ET @ \$62 per ET \$47
(\$60 base rate + \$2 indexation)
S94 Plan No. 12
- (f) **Eviron Cemetery:**
0.75 ET @ \$121 per ET \$91
(\$101 base rate + \$20 indexation)
S94 Plan No. 13
- (g) **Community Facilities (Tweed Coast - North)**
0.75 ET @ \$1352 per ET \$1014
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (h) **Extensions to Council Administration Offices
& Technical Support Facilities**
0.75 ET @ \$1812.62 per ET \$1359.47
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18
- (i) **Cycleways:**
0.75 ET @ \$460 per ET \$345
(\$447 base rate + \$13 indexation)
S94 Plan No. 22

- (j) **Regional Open Space (Casual)**
 0.75 ET @ \$1064 per ET \$798
 (\$1031 base rate + \$33 indexation)
 S94 Plan No. 26
- (k) **Regional Open Space (Structured):**
 0.75 ET @ \$3730 per ET \$2798
 (\$3619 base rate + \$111 indexation)
 S94 Plan No. 26

[PCC0215]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4: 1 ET @ \$12150 per ET	\$12150
Sewer Banora: 1 ET @ \$5838 per ET	\$5838

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

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

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

[PCC0265]

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

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

[PCC0485]

12. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted to and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The plan of landscaping shall provide details of landscaping at the front of the lot and shall demonstrate planting that reduces the dominance of the garage doors, accentuates legibility between the two dwellings and shall include tree species and shrubs of varying heights and colours. The plan is also to include details of proposed retaining walls and fences, particularly at the front of the lot, and will incorporate areas of landscaping to soften the appearance of the proposed garage doors. Further, the plan is to demonstrate details of the interface between the subject site and the public domain (road reserve) and is to include existing and finished ground levels linked to Australian Height Datum. The development shall be carried out in accordance with the submitted and approved details and shall thereafter be retained as such.

[PCC0585]

13. 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]

14. 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:

- Provision of a vehicular access in accordance with Section A2 - Site Access and Parking Code of Council's consolidated Tweed Development Control Plan and Council's 'Driveway Access to Property - Part 1' Design Specification June 2004.

The access shall provide the required 2m x 2m 'sight triangle' envelope.

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

- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

15. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

16. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) Specific Requirements to be detailed within the Construction Certificate application include:
 - o Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.
 - o Runoff from the driveway must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized accordingly to Council's *Development Design Specification D7 - Stormwater Quality*, Section D7.12. Engineering details of the proposed devices of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
 - o Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

18. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils *Development Design and Construction Specification - Stormwater Quality*.

[PCC1125]

19. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

20. 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]

21. A single dwelling or group of up to three attached or detached dwellings, having a Building Code classification of 1a, must be connected by means of a single water service pipe each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1305]

22. Stormwater management measures and devices shall be provided in general accordance with Cozens Regan Williams Prove Drawing No. Sk.2 (Issue A, dated 09/11), except where varied by these conditions of consent. Engineering details of the stormwater management system shall be submitted with a Section 68 Stormwater Application for Council approval prior to the issue of a Construction Certificate.

[PCCNS01]

23. For developments containing less than four attached or detached dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCCNS02]

24. Prior to the issue of a Construction Certificate the proponent shall submit a detailed plan (including but not limited to colour elevations and a coloured 3 dimensional street view) that includes a material and colour scheme for the dual occupancy development to be approved by the General Manager or his delegate. This plan may include, but not be limited to, the use of materials that are complimentary to the surrounding landscape (i.e. timber, stone, metal) and colours that provide visual depth to the development. The development shall be carried out in accordance with the submitted and approved details and shall thereafter be retained as such.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

25. 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]

26. 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]

27. 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]

28. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

29. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

30. 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]

31. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

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

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

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

[PCW0985]

33. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

34. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

35. 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]

36. 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]

37. 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]

38. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

39. 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]

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

[DUR0415]

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

[DUR0815]

42. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

43. 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]

44. 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 Occupation Certificate.

[DUR0995]

45. 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]

46. 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]

47. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
48. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
- [DUR1905]
49. 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 Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
50. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.
- [DUR1955]
51. During construction, a “satisfactory inspection report” is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR2445]
52. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
- [DUR2485]
53. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
54. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]

55. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

56. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

57. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

58. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

59. 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]

60. 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]

61. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

62. 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]

63. 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]
64. Submission to the Principal Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.
[POC0815]
65. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.
[POC0865]
66. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.
[POC0985]
67. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.
[POC1045]
68. 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]

USE

69. 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]
70. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.
[USE0175]

Section 79BA of the 'Environmental Planning and Assessment Act 1979'

71. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
72. In recognition that the dual occupancy may be connected to a gas supply, the following requirements are to be complied with:

- a) Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
73. New construction shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
74. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

REPORT:

Applicant: Mr K Kozak and Mrs M Kozak
Owner: Mr Krzysztof Kozak & Mrs Maria Kozak
Location: Lot 21 DP 1124438; No. 27 Charles Street TWEED HEADS
Zoning: 2(b) Medium Density Residential
Cost: \$500,000.00

Background:

At the Council meeting of 17 April 2012, Councillors resolved to refuse a development application for the construction of an attached three-storey dual occupancy development at 27 Charles Street, Tweed Heads.

Each of the dwellings run lengthways through the site with an easterly orientation with access provided from Charles Street by way of two (2) double garages. Level 1 would comprise garage parking for two (2) vehicles per dwelling and pedestrian access to the two levels of living above. Level two comprises two (2) bedrooms oriented to the front of the buildings with separate bathroom/toilet and laundry with patio to the rear; Level three comprises an open plan kitchen / living and dining area with access to covered balconies at the front of the building and master bedroom located to the rear.

The site is currently vacant, with site levels reflecting the retained benching evident from a dwelling house that previously existed on the site. The site is trapezoidal in shape with a frontage to Charles Street to the east of approximately 16m. The site has a width of 16m and an average length of 27m, creating a total site area of 452m². The property comprises a steep slope from the RL 37m AHD at the Charles Street frontage, to RL 43m AHD to the rear. Vehicular access to the site would be directly from Charles Street.

The property to the rear of the site (No 27A Charles Street) is currently vacant, rectangular in shape and accessed to the south of the site via a narrow, one-way right of access. The adjoining properties to the north and south of the subject site are two storey single dwellings.

The proposed development has been consistently presented to Council as a two (2) storey building with, according to the proponent, Level 1 comprising 'basement' parking. This issue was explored in detail within the previous Council report. A SEPP No. 1 Objection was requested and was later submitted to Council on a 'without prejudice basis'. Within the SEPP No. 1 Objection the applicant maintained that the proposed development constitutes a two storey building as the two habitable levels are constructed above a basement garage.

Within the previous report to Council, Council Officers considered that the parking areas could not be defined as a basement and that the proposed buildings constituted three storeys. Council's interpretation of finished floor level, storey and basement has not altered and Council remains of the opinion that the development proposes a three storey building.

The proponent has submitted an updated SEPP No. 1 Objection that reiterates that the development comprises a two storey building. In Council's opinion the SEPP No. 1 Objection does provide adequate justification for the proposed variation to the development standard given the proposed new height limit of 9m from existing ground level.

The proponent has also included a number of minor changes to the proposal such as: amended details of levels at front of site; relocation of driveway crossover and driveway design to the garage; amended pedestrian access stairs to basement level; relocation of the main pedestrian entry to the sides of the building; amended front fence and retaining wall to screen basement entry and maintain the general profile of the existing ground level. It is noted that the general floor plan layout, number of units and car parking spaces and overall height of the development has not changed.

The Council officers are of the opinion that such modifications do not lessen the overall scale of the development and remain concerned about the impact of the proposal on the character of the locality. However, of key importance in the determination of this Section 82A RoD is the imminent gazettal of the Draft Tweed City Centre LEP 2012 which will establish a maximum height limit of 9m in the Razorback Precinct measured from existing ground level to the top of the building. The building is currently 7m above existing ground level at the front of the site and 2.6m at the rear.

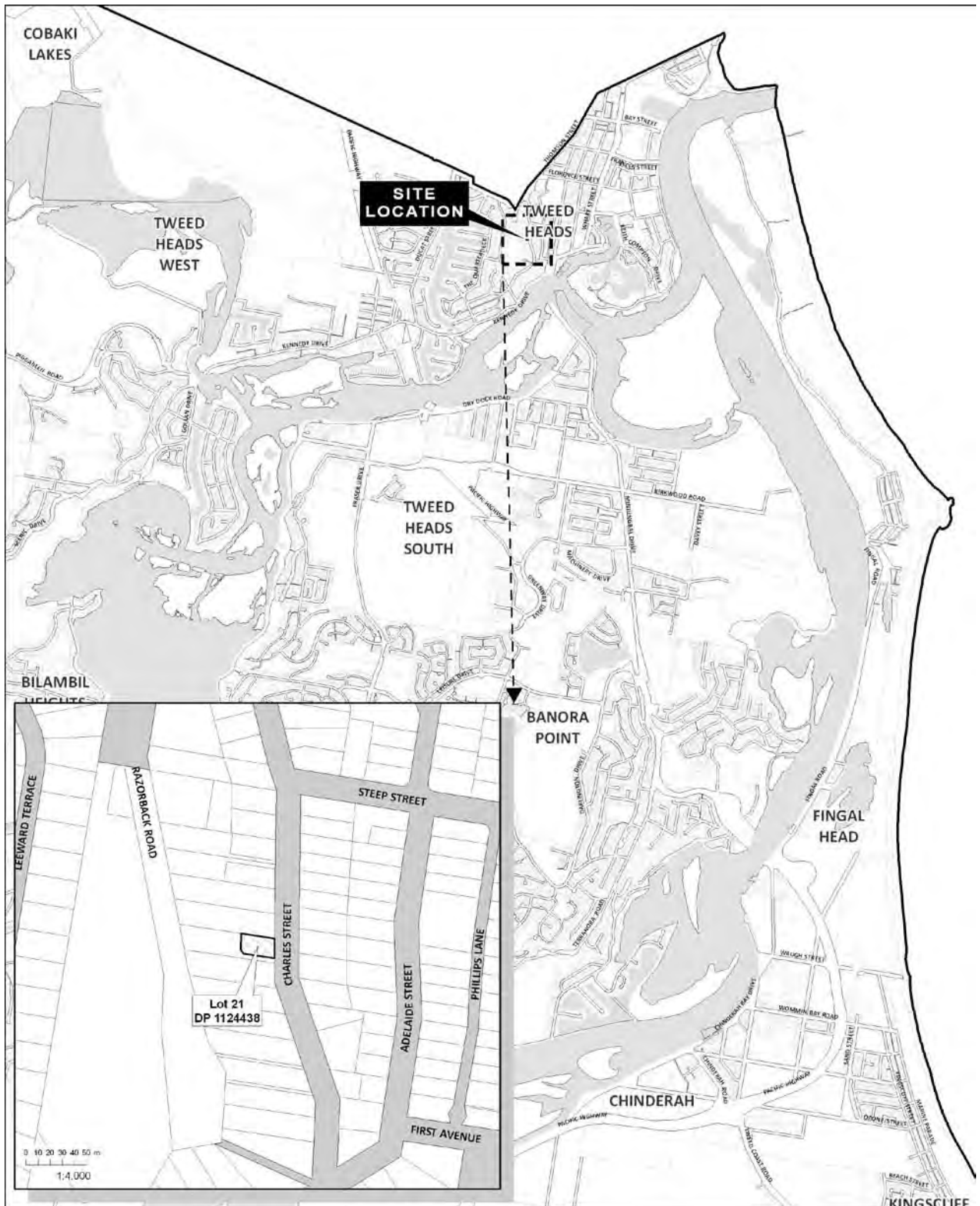
The current Development Control Plan (DCP) for Tweed Heads (Section B2) and the Draft Tweed City Centre DCP (Section B2) advise that the development controls anticipate minimal changes to the predominantly two storey character of the Ridgeline and Razorback Precinct. However, there are no specific controls within either of these documents that ensure that a two storey height limit is retained, both of which default to either Section A1 of the DCP (which sets a maximum building height of 9m above finished ground level) or the LEP. Given the inconsistency between the DCP documents and the Draft Tweed City Centre LEP 2012 that is soon to be gazetted, it is usual for the provisions contained within the latter to prevail.

It is acknowledged that there are examples of buildings that comprise three storey elements in the Razorback Precinct, however none have been brought to Council's attention that replicate this scenario of a relatively constrained, up-sloping site. Within this report it is advised that there is no doubting that the proposed building will impact significantly on streetscape character and set a precedent for similar developments in the future.

It is considered unfortunate that the building has not been stepped back into the site so as to reduce the overall bulk and dominance of the proposal. However, as detailed further within this report, it may now be difficult to substantiate a refusal of the proposal on these grounds, given the impending Draft Tweed City Centre LEP 2012 will establish a minimum height limit of 9m from existing ground level.

The Section 82A RoD was advertised for a period of two weeks, during which three submissions were lodged against the proposal.

SITE DIAGRAM:



Locality Plan

Lot 21 DP 1124438
No. 27 Charles Street, Tweed Heads

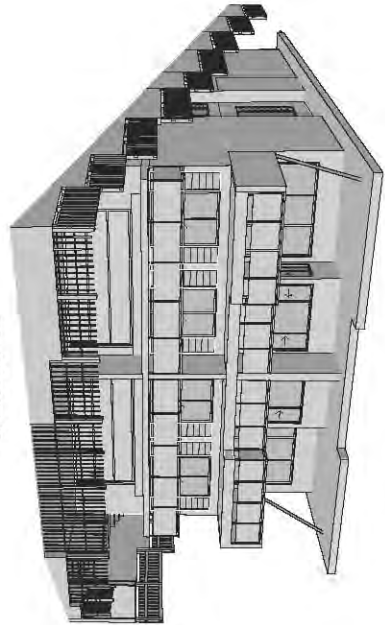
Exclusion: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general audience and is to be considered indicative and approximate only. It should not be used for survey or construction purposes and prior to any transactions a 'Field before You Buy' enquiry must be made by calling 1500. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 02 April 2012
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Boundaries shown should be considered approximate only.

0 0.5 1 Km
1:40,000 @ A4 Portrait
COPY ONLY - NOT CONTROLLED
Map Projection: Universal Transverse Mercator
National Grid: GDA94
Scale: 1:40,000

City and Cultural Centre
5 Tumbidgee Road
Murrumbidgee NSW 2484
PO Box 816
Murrumbidgee NSW 2484
T | (02) 6670 2400 | 1500 292 872
F | (02) 6670 2429
W | www.tweed.nsw.gov.au
E | planning@cityofmurrumbidgee.nsw.gov.au





FRONT 3D



SITE LOCATION PLAN

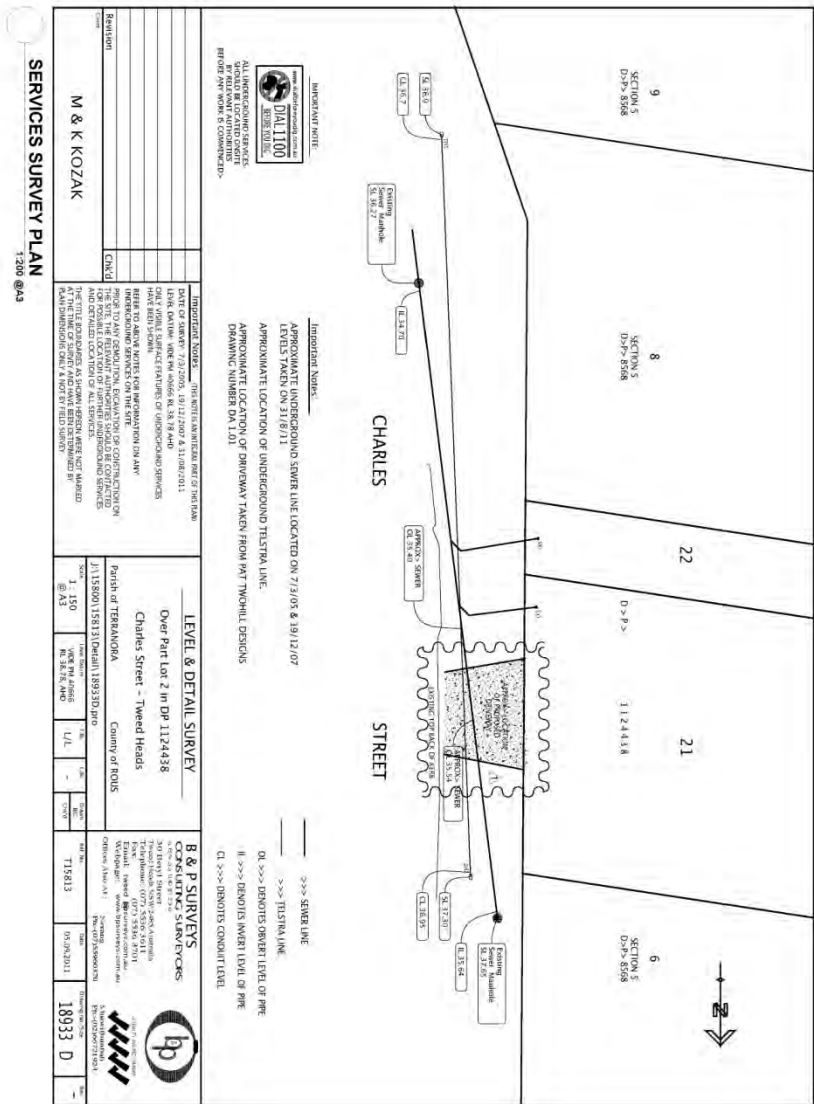
DEVELOPMENT APPLICATION

PROPOSED 2 X ATTACHED DWELLINGS
LOT 21 DP 1124438
 27 Charles Street Tweed Heads NSW

DRAWING INDEX	DRAWING NAME
DA100	COVER SHEET - SITE LOCATION PLAN
DA101 (*)	SITE PLAN - SECTION THRU DRIVEWAY
DA102 (*)	SERVICES SURVEY PLAN
DA103	SITE ANALYSIS PLAN
DA201 (*)	LEVEL 1 FLOOR PLAN
DA202 (*)	LEVEL 2 FLOOR PLAN
DA203	LEVEL 3 FLOOR PLAN
DA204	ROOF PLAN
DA301 (*)	ELEVATIONS
DA302 (*)	ELEVATIONS
DA401 (*)	SECTIONS
DA402 (*)	SECTIONS
DA501	SHADOW/DIAGRAM PLAN
DA601	IMPERVIOUS AREAS/STPLAN/LANDSCAPING CONCEPT PLAN



(07) 5536 9020
 mail@pdtwohill.com.au
 Pat Twohill Designs P/L
 Suite 5/133 York St
 Tweed Heads NSW 2486
 ABN 88 480 308 082



IMPORTANT NOTE:
 ALL UNDERGROUND SERVICES SHOWN IN THIS PLAN ARE APPROXIMATE LOCATIONS. BEFORE ANY WORK IS COMMENCED, THE EXACT LOCATION OF ALL SERVICES SHOULD BE VERIFIED BY FIELD SURVEY.

IMPORTANT NOTES:
 APPROXIMATE UNDERGROUND SEWER LINE LOCATED ON 7/3/05 & 19/12/07 LEVELS TAKEN ON 31/8/11
 APPROXIMATE LOCATION OF UNDERGROUND TESTRA LINE
 APPROXIMATE LOCATION OF DRIVEWAY TAKEN FROM PART TRENCHILL DESIGN DRAWING NUMBER DA 101

--->--- SUMMER LINE
 --->>> TESTRA LINE
 --->>> DROUGHT OVERHEAD LEVEL OF PIPE
 CL --->>> DROUGHT CONDUIT LEVEL

REVISION		LEVEL & DETAIL SURVEY		B & P SURVEYS	
1	Issue	1	1:150	1	1:150
2	Issue	2	1:150	2	1:150
3	Issue	3	1:150	3	1:150
4	Issue	4	1:150	4	1:150
5	Issue	5	1:150	5	1:150
6	Issue	6	1:150	6	1:150
7	Issue	7	1:150	7	1:150
8	Issue	8	1:150	8	1:150
9	Issue	9	1:150	9	1:150
10	Issue	10	1:150	10	1:150
11	Issue	11	1:150	11	1:150
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47	Issue	47	1:150	47	1:150
48	Issue	48	1:150	48	1:150
49	Issue	49	1:150	49	1:150
50	Issue	50	1:150	50	1:150

SERVICES SURVEY PLAN
 1:200 @A3

PROJECT INFORMATION		DATE	
PROJECT NAME: SERVICES SURVEY PLAN		DATE: 18/03/11	
PROJECT NO: DA102		DATE: 18/03/11	
PROJECT LOCATION: CHARLES STREET, TWEED HEADS		DATE: 18/03/11	
PROJECT CLIENT: M & K KOZAK		DATE: 18/03/11	
PROJECT DESIGNER: B & P SURVEYS		DATE: 18/03/11	
PROJECT CHECKER: B & P SURVEYS		DATE: 18/03/11	
PROJECT APPROVED: B & P SURVEYS		DATE: 18/03/11	
PROJECT SCALE: 1:200 @A3		DATE: 18/03/11	
PROJECT STATUS: 1		DATE: 18/03/11	
PROJECT SHEET: 1		DATE: 18/03/11	
PROJECT TOTAL SHEETS: 1		DATE: 18/03/11	

SITE ANALYSIS



OPPORTUNITIES

- MAINTAIN & ENHANCE CHARACTER STREETSCAPE
- MAINTAIN SOLAR ACCESS TO ADJACENT PROPERTIES
- IMPROVE ENVIRONMENTAL QUALITY OF STORM WATER RUNOFF
- IMPROVE LANDSCAPING TO STREET FRONTAGE
- CAPTURE VIEWS TO THE RIVER AND COASTLINE
- INCREASE URBAN DENSITY
- RECYCLE WATER IN AN URBAN SITUATION
- CAPTURE COOLING BREEZES FROM ELEVATED SITE
- MAINTAIN SCENIC BACKGROUN

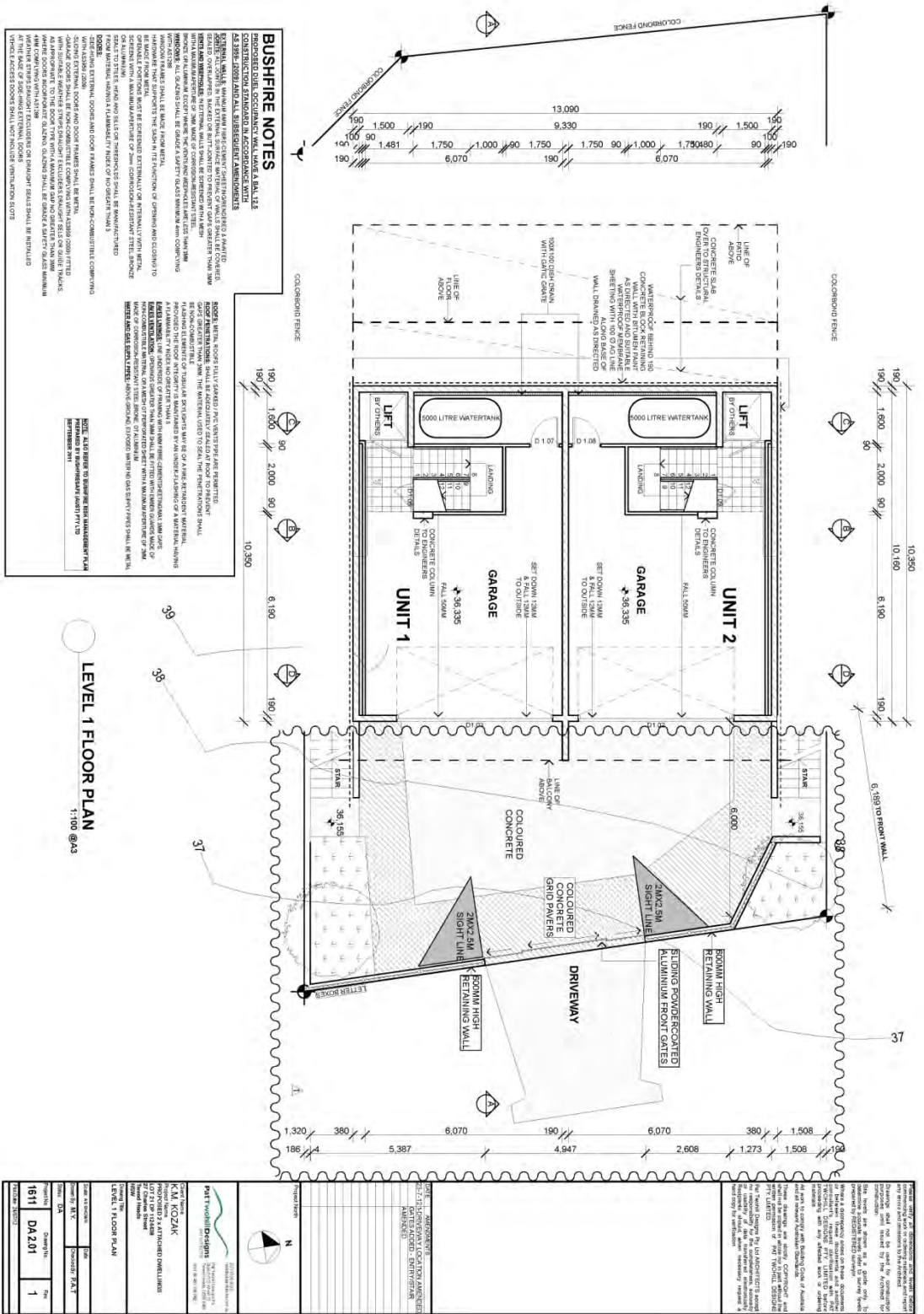


CONSTRAINTS

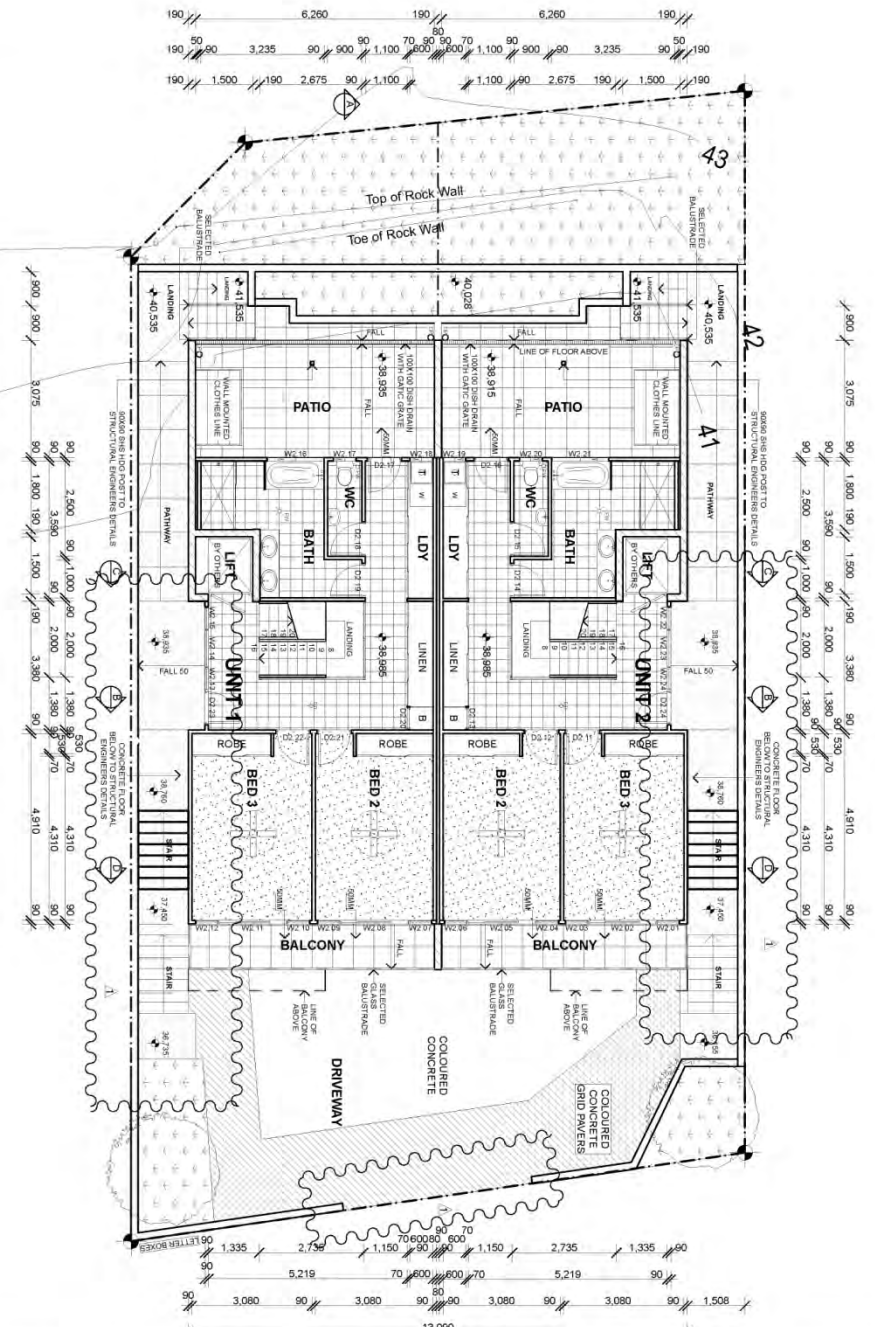
- BUSHFIRE PRONE
- SITE AND VEHICLE ACCESS
- SLOPING TOPOGRAPHY
- BUILDING SETBACKS
- 2B ZONE

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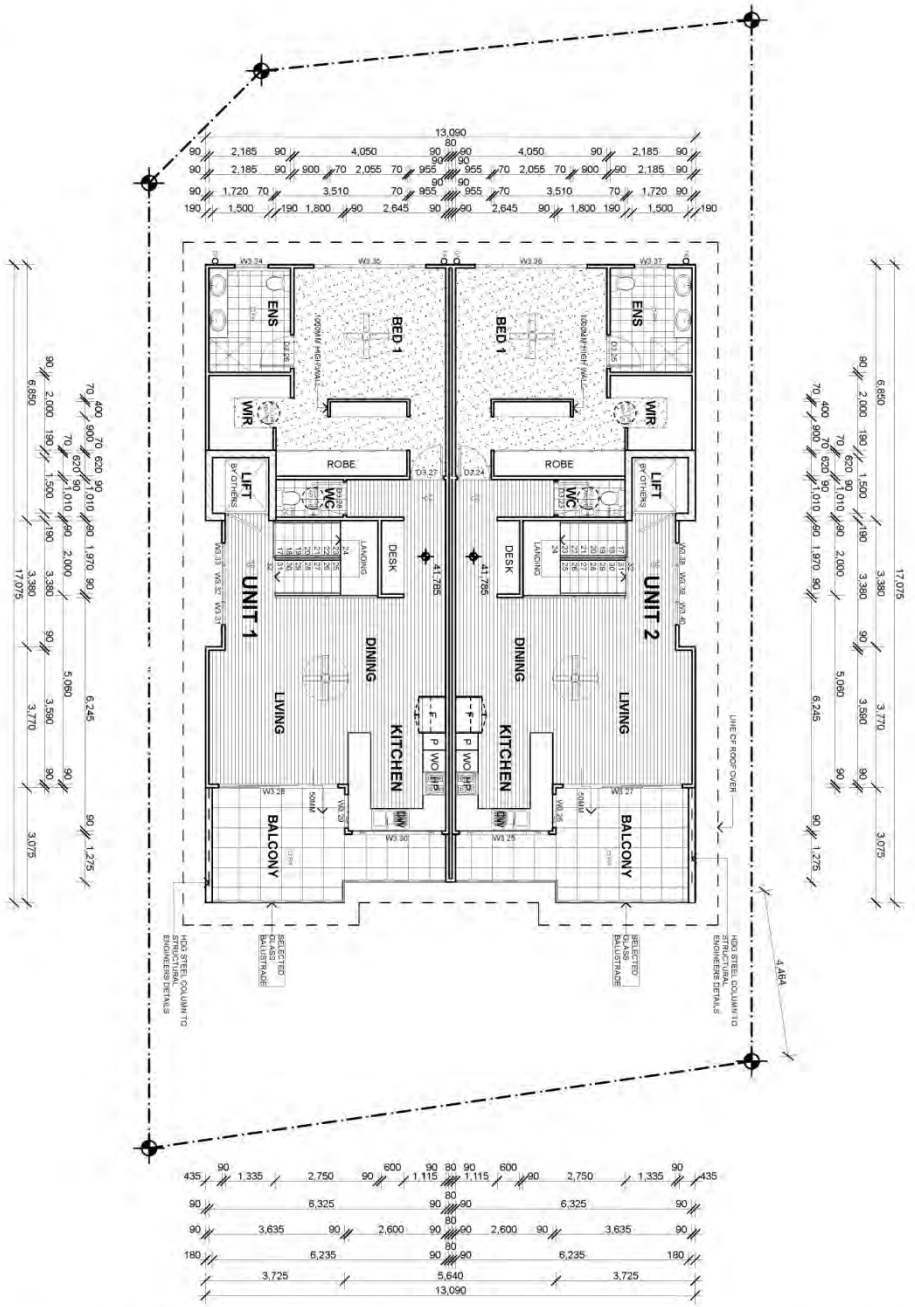


LEVEL 2 FLOOR PLAN
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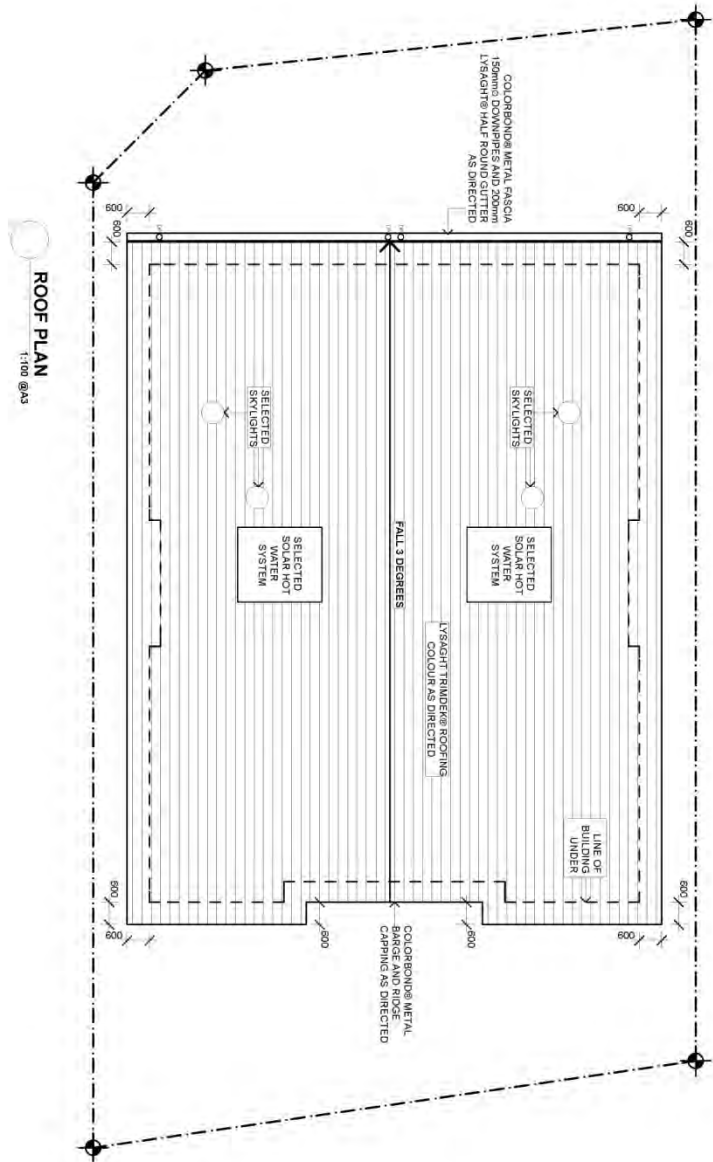


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<p>CLIENT INFORMATION</p> <p>1811 DA 202 1</p>	
<p>DESIGNER INFORMATION</p> <p>PAT VONSHILDESIGN</p>	
<p>ARCHITECT INFORMATION</p> <p>K. M. KOZAK</p>	
<p>ENGINEER INFORMATION</p> <p>LEVEL 2 FLOOR PLAN</p>	

LEVEL 3 FLOOR PLAN
1:100 @A5



<p>NOTES:</p> <p>1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>2. ALL DIMENSIONS ARE TO BE CHECKED BY THE ARCHITECT PRIOR TO CONSTRUCTION.</p> <p>3. ALL DIMENSIONS ARE TO BE CHECKED BY THE ARCHITECT PRIOR TO CONSTRUCTION.</p> <p>4. ALL DIMENSIONS ARE TO BE CHECKED BY THE ARCHITECT PRIOR TO CONSTRUCTION.</p> <p>5. ALL DIMENSIONS ARE TO BE CHECKED BY THE ARCHITECT PRIOR TO CONSTRUCTION.</p>																			
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<p>CLIENT: K.I.A. KOZAK</p> <p>PROJECT: RESIDENTIAL DEVELOPMENT</p> <p>ADDRESS: 1611 DA203</p>																			
<p>DESIGNER: K.I.A. KOZAK</p> <p>DATE: 25/10/12</p>																			
<p>SCALE: 1:100 @A5</p>																			
<p>PROJECT NO.: 1611 DA203</p>																			
<p>DATE: 25/10/12</p>																			



ROOF PLAN
1:100 @A3

NOTICE: THIS SET OF DRAWINGS FOR ROOF PLAN
 is a preliminary design and is not to be used for construction purposes. It is subject to change without notice and is not to be used for any other purpose. The client is responsible for ensuring that the drawings are used for the intended purpose and are not used for any other purpose. The client is also responsible for ensuring that the drawings are used in accordance with the relevant building codes and regulations. The client is also responsible for ensuring that the drawings are used in accordance with the relevant building codes and regulations. The client is also responsible for ensuring that the drawings are used in accordance with the relevant building codes and regulations.

PROJECT INFORMATION

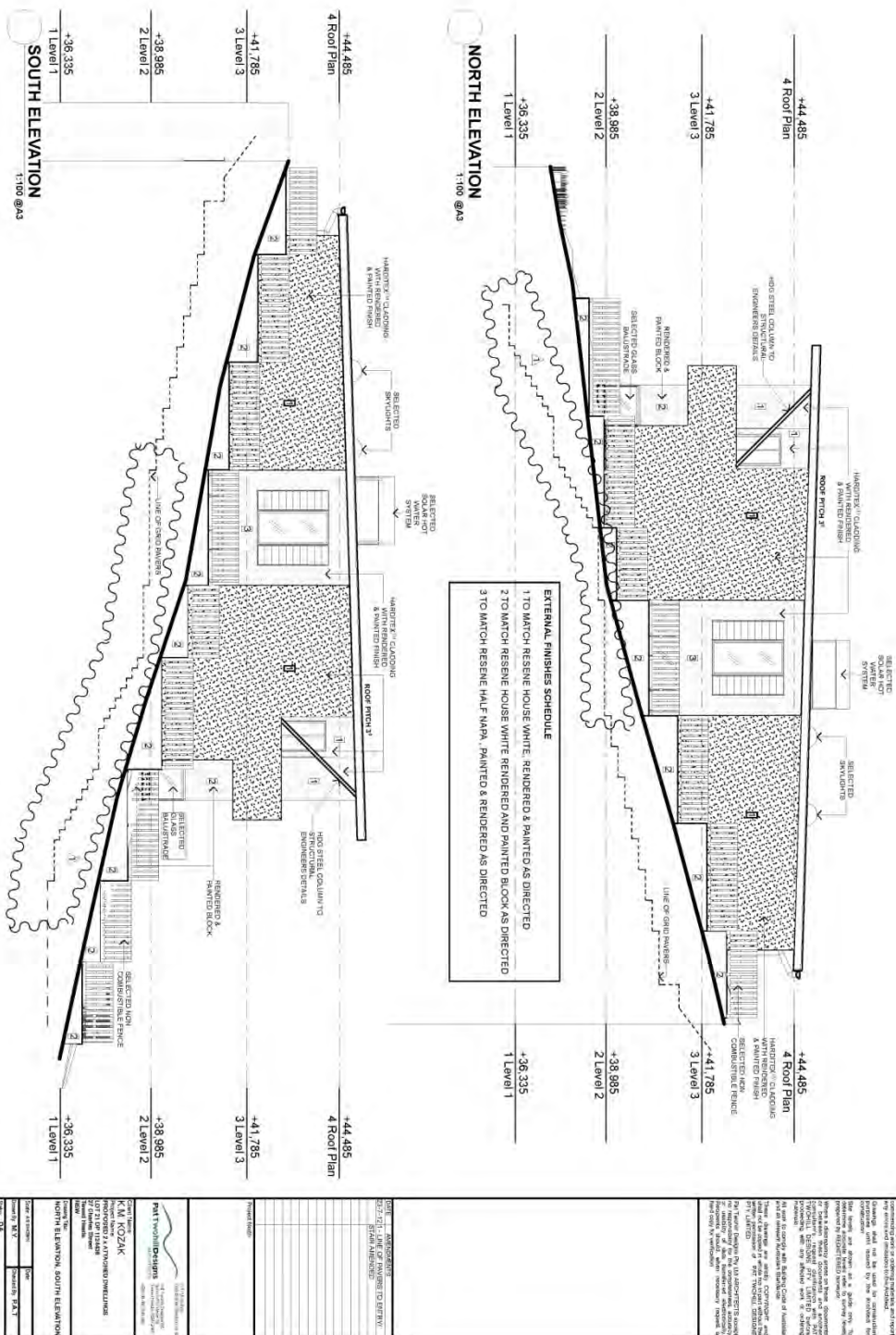
Project Name: **K.I.M. KOZAK**
 PROJECTING & ARCHITECTURE
 277 Collins Street
 Melbourne, VIC 3000
 Phone: (03) 9646 1111
 Email: info@kimkozak.com.au

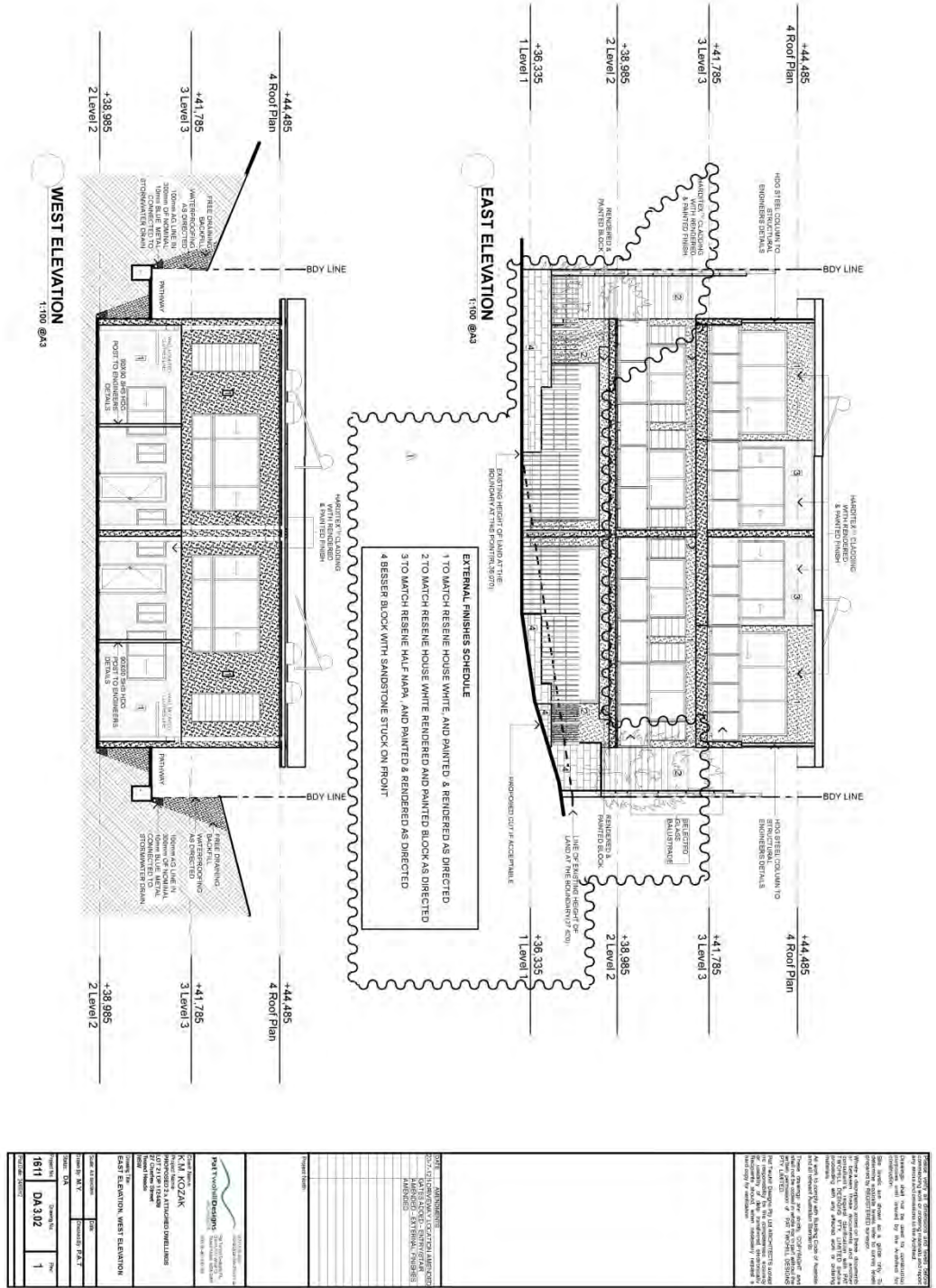
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 Project No: **1611**

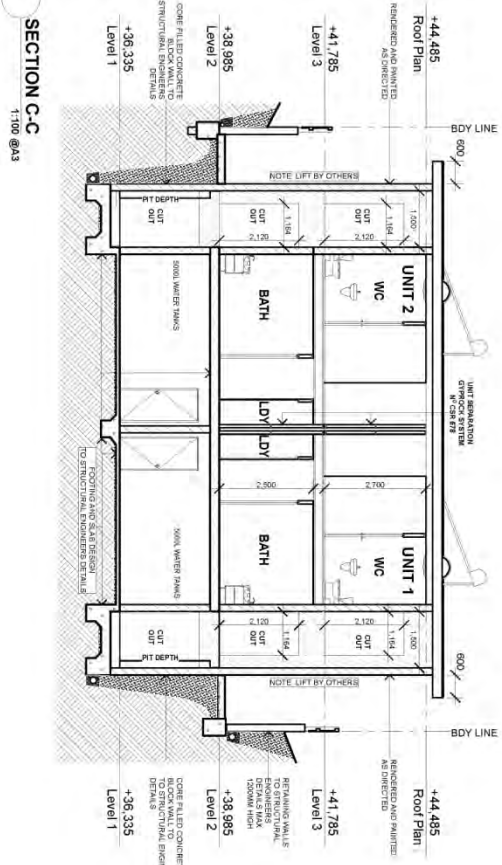
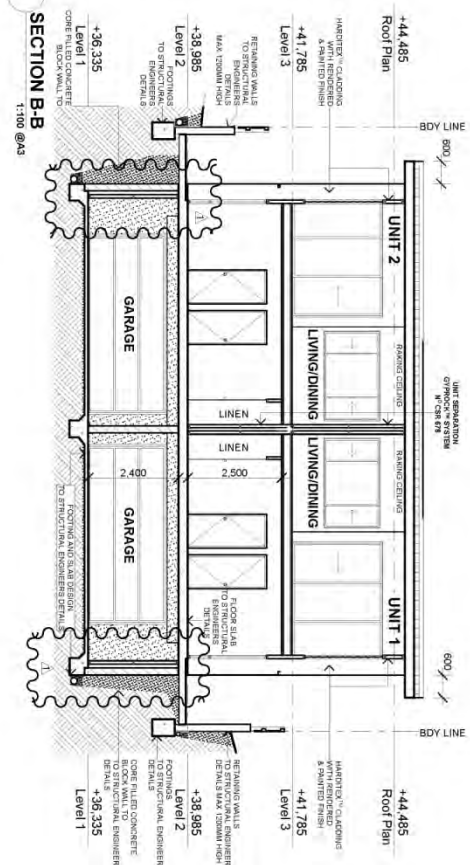
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Drawn by: **DA**
 Checked by: **DA**

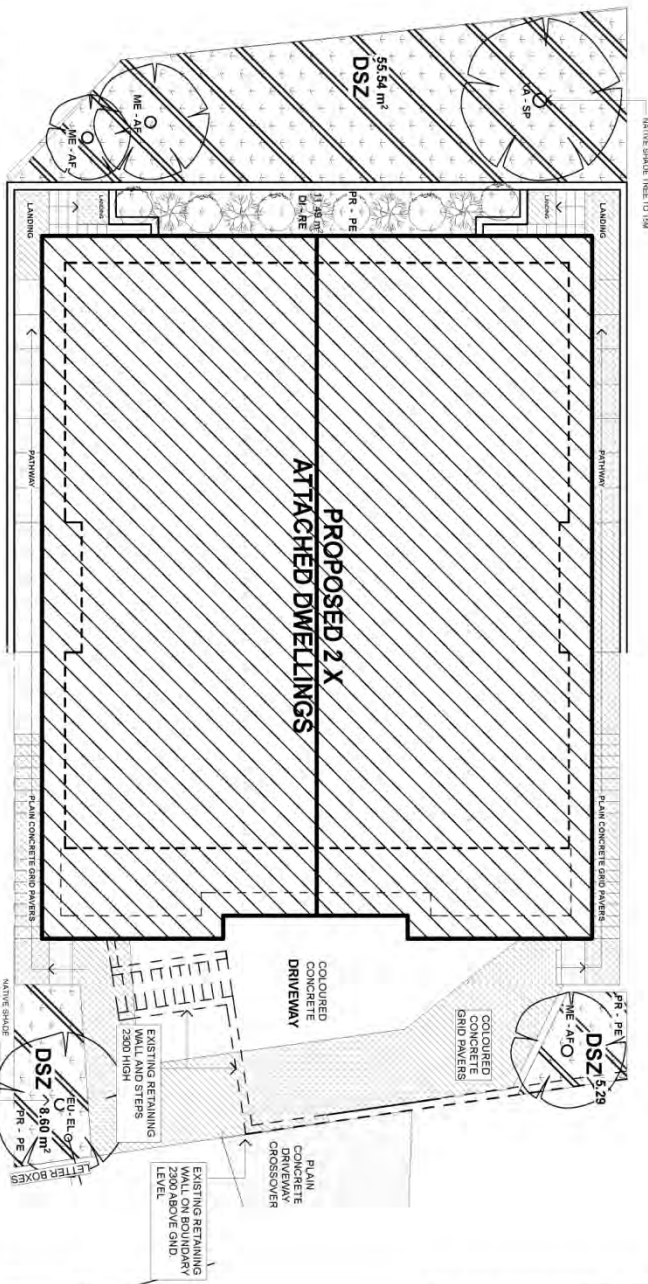
Date: **16/11/2011**







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<p>2012-10-25 16:11 DA 402 1</p>	
<p>1611 DA 402 1</p>	
<p>SECTION C-C SECTION B-B</p>	
<p>K. M. KOZAK ARCHITECT 2700 W. 10TH AVENUE DENVER, CO 80202 TEL: 303.733.1111 WWW.KM-KOZAK.COM</p>	
<p>2012-10-25 16:11 DA 402 1</p>	



IMPERMEABLE SURFACE FACTORS

SURFACE TYPE	MATERIAL	IMPERMEABLE FACTOR
ROOF SURFACES	METAL, TILE SLATE AND OTHER WEATHERABLE MEMBRANES	0.05
GROUND SURFACES	OPEN ROOFS / ROOF GARDENS	1.0
	CONCRETE FINING (NON-POROUS) GRAVEL	0.75
	SQUARE PAVING	0.20
	SEEP PAVERS	0.0
	SEEP SOIL ZONES	0.0
	LANDSCAPING VEGETATION	0.0
	PLANTING ON STRUCTURES	1.0
DECKS	CONCRETE FINING (NON-POROUS)	1.0
	TIMBER OVER NATURAL SOIL	0.20
SWIMMING POOLS	ALUMINIUM	0.20
		0.20

NATIVE PLANT SCHEDULE

KEY	BOTANICAL NAME	COMMON NAME	QUANTITY	HIGHT & SPREAD
NA-SP	KANTONSTATION SP	GOLDEN HENNA	1	1000MM
EU-EL	ELIQUA ELIPHYLLA	PINK ELIQUA	1	1000MM
ME-JAS	MEADSTOCK AFFINE	WATTLE LABRADOR	1	3000MM
PR-PE	PRUNUS PERSICULON	BLACK AMYGDALUS	20	PROTECTIVE SPRINGS
DI-ME	DIMELIA VERTICILLA	BLACK AMYGDALUS	25	1000MM

DSZ: DEEP SOIL ZONE

SITE AREA 452M²
MIN PERVIOUS 135.6M²
MAX IMPERVIOUS 316.4M²

THE MAXIMUM AREAS FOR IMPERVIOUS SURFACES:
 70% OF THE ALLOTMENT - ON LOT SIZES LESS THAN 500M²

DEVELOPMENT SUMMARY

SITE AREA:	452M ²
NO OF DWELLINGS:	2
LEVEL 1 GFA:	130.66M ²
LEVEL 2 GFA:	151.80M ²
LEVEL 3 GFA:	181.80M ²
TOTAL GROSS FLOOR AREA (incl balconies):	462.86M ²
BALCONIES:	45.28M ²
PARTIOS:	38.52M ²
CARPARKING:	4 CAR SPACES
MAXIMUM FOR ACTUAL FLOOR SPACE RATIO:	0.35:1
REAR DEEP SOIL ZONE:	67.03M ²
FRONT DEEP SOIL ZONE:	14.83M ²
IMPERV AREA PERMITTED - 70%:	316.4M ²
PROPOSED IMPERV AREA:	313.88M ²

NOTES:

1. THIS PLAN IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE LOCAL COUNCIL.
2. THE DESIGNER ACCEPTS NO LIABILITY FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN.
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5. THE DESIGNER ACCEPTS NO LIABILITY FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN.

PREPARED BY: K.M. KOZAK
DATE: 07/12/11
SCALE: 1:100 @ A3

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

A principle aim of the Plan is to ensure:

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 [and] to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.

The proposed development is of a relatively minor nature and scale and is not likely to impact on the character of the Tweed as a whole. The proposed dwellings are of a contemporary design that provide an interesting variety of materials and, in general, would not be incompatible with the surrounds or the area's environmental and residential amenity qualities.

However, when viewed from the street, the development comprises a three storey development in an area restricted to a height limit of two storeys.

Within the previous assessment of the proposal it was considered that the development did not comply with the current TLEP and that the SEPP No. 1 Objection had failed to take into consideration the resultant visual impact that the proposal would have on the character and amenity of the surrounding area. Furthermore, it was considered that should the development have been approved, it would have set an undesirable precedent for similar development in the future.

It is important to note that, since the determination of the application, the gazettal of the Draft Tweed City Centre LEP 2012 has become imminent and, by virtue of the introduction of a 9m height restriction from existing ground level, as opposed to two storeys, the proposed development would be consistent with the height provisions.

This clause also requires that development complies with the zone objectives. This is addressed below.

Clause 5 - Ecologically Sustainable Development

The intent of this clause is to provide for development which is compatible with principles of ecological sustainable development (ESD) including the precautionary principle, inter-generational equity, ecological and environmental factors.

It is considered that the scale and nature of the proposed dual occupancy development is minor and, as the site has already been substantially cleared of vegetation, would not conflict with principles of ESD.

Clause 8 – Consent Considerations

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

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

It is considered that the development would be consistent with the primary objectives of the 2(b) Medium Density Zone. The subject site is located in an established residential area and it is generally considered that the proposed dual occupancy development would not have an unacceptable impact on the area of Tweed as a whole.

As previously detailed, the development comprises a three storey building in a zone that is currently limited to a height limit of two storeys. It is considered that the information submitted as part of the Section 82A RoD fails to demonstrate why a relaxation in the two storey height should be allowed in this instance or the detrimental impact that the proposal would have on the character and amenity of the immediate locality, which, in general, is characterised by one and two storey dwellings.

However, as detailed further within this report, the gazettal of the Draft Tweed City Centre LEP 2012 is nearing completion, in which the zone is restricted to a maximum height limit of 9m from existing ground level, as opposed to two storeys from finished ground level. The proposed building would be 9m in height from finished ground level (please note the previous Council report incorrectly stated 9.5m in height) and approximately 7m from existing ground level at the front of the site, and 2.6m at the rear. Therefore the Tweed City Centre LEP 2012 is a material consideration with this regard, as detailed further within this report.

Clause 11 – Zone Objectives

The subject site is located within the 2(b) Medium Density Residential Zone. The objectives of which are as follows:

Primary objectives:

To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.

Secondary objectives:

To allow for non-residential development which supports the residential use of the locality.

To allow for tourist accommodation that is compatible with the character of the surrounding locality.

To discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.

The previous assessment of the proposal advised that whilst the proposal meets the requirement for the provision of medium density housing it was considered, by reason of the dominant three storey building height, that the proposal would fail to result in a good urban design outcome and would not be in keeping with surrounding streetscape character.

As detailed previously within this report however, the gazettal of the Draft Tweed City Centre LEP 2012 is imminent and within this document the proposed development would be consistent with the height provisions. Whilst it may be argued that the proposed development may be detrimental to the character of the area and, by virtue of its height and bulk would not achieve a good urban design outcome, the proposal would be consistent with the Draft Tweed City Centre LEP 2012 controls.

Clause 15 - Essential Services

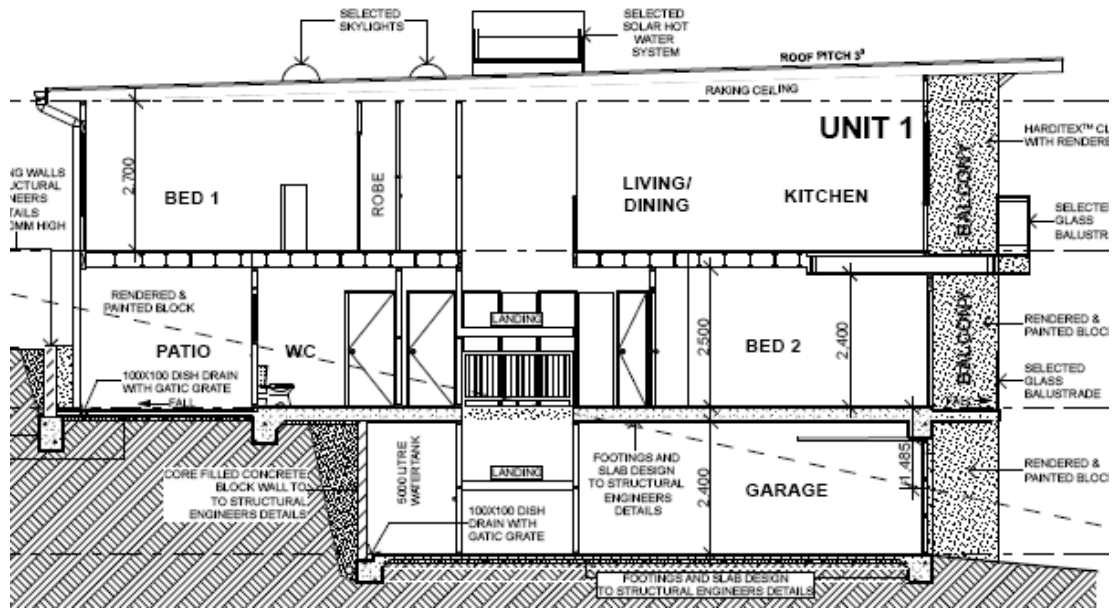
The primary objective is to ensure that development does not occur without adequate measures to protect the environment and the community's health.

The subject site has existing access to essential services. The dwellings will be connected to Council sewer and water. Accordingly, the proposal is consistent with the provisions of this clause.

Clause 16 - Height of Building

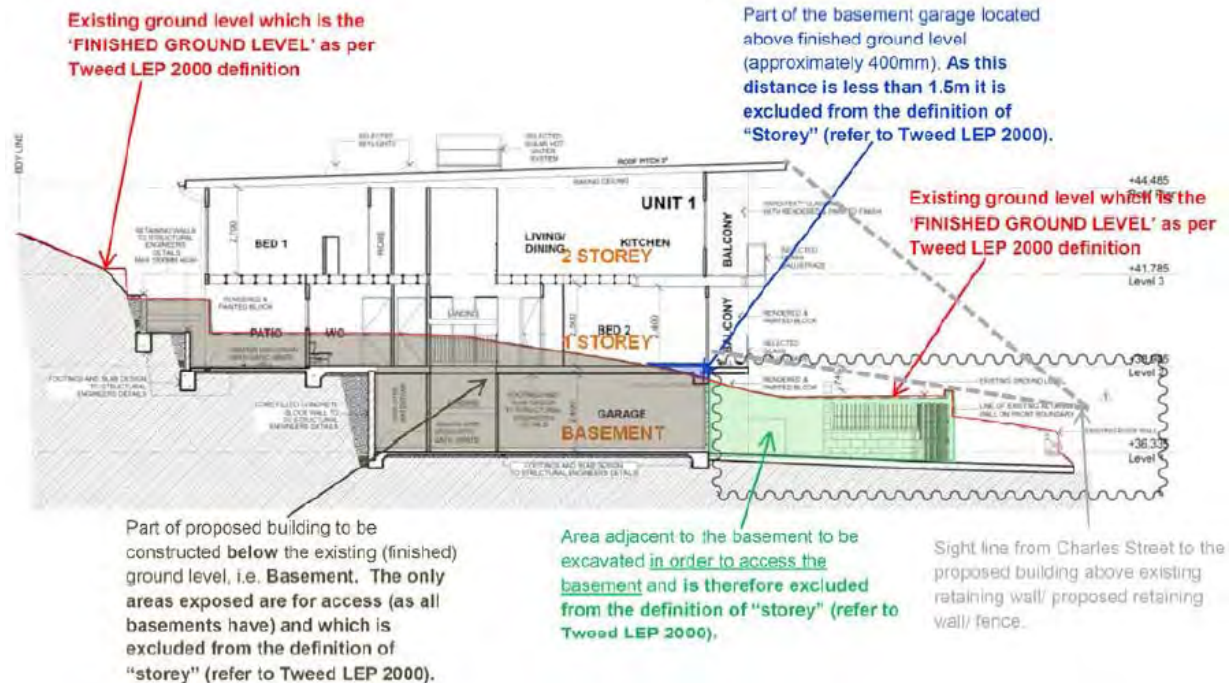
Clause 16 aims to ensure that the height and scale of development is appropriate to its location, surrounding development and environmental characteristics of the land. Clause 16 of the TLEP provides a two-storey height restriction over the subject site.

The proponent has consistently maintained that the building is two storey and therefore consistent with Clause 16. The previous report submitted to Council provided a detailed examination of the definition of 'finished ground level' and 'storey' and advised that the development proposed a three storey building.



Original section of proposed dual occupancy development

As detailed within the original assessment of the proposal, the proponent advised that the proposed development constituted two storeys as the parking area is defined as a 'basement' and therefore excluded from the definition of finished ground level (i.e. *The natural ground level of the land that was the level of the land at the appointed day, or the level of the land after such earthworks (excluding any basement excavations) as are consented to by the consent authority, whichever is the lower*).

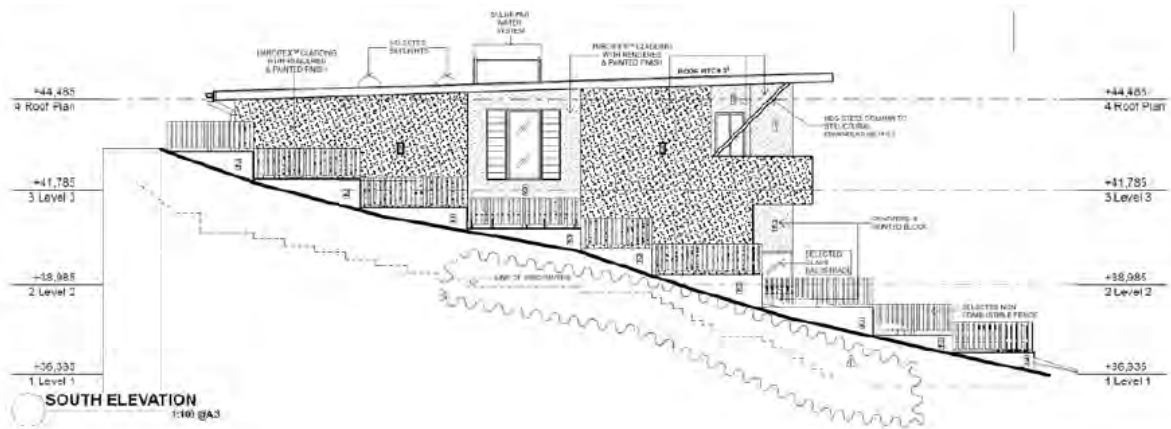


Section of proposed development as submitted within the Section 82A RoD

Within the Section 82A RoD the proponent considers that as the 'basement will be almost entirely below the existing ground surface' that the 'proposed building is properly assessed as two storeys in height in accordance with the provisions of Tweed TLEP 2000'.

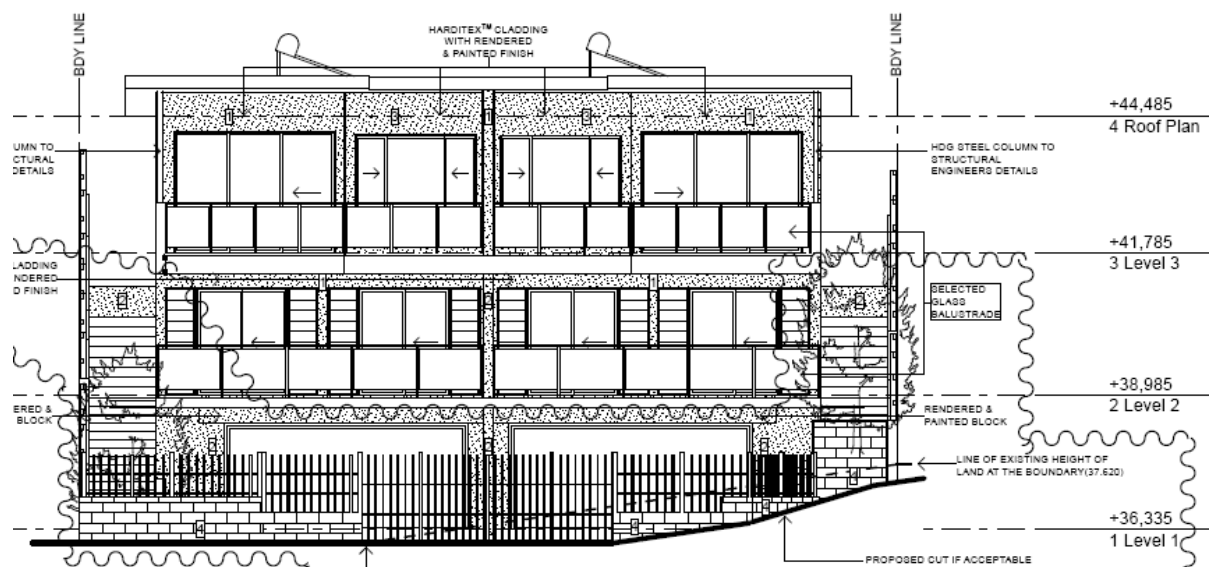
It is considered that the proponent's definition of the 'finished ground level' remains flawed. Council reiterates that the proposed parking area is not a 'basement' and as such the space between the finished ground level (i.e. the level of the land after such earthworks) and the floor immediately above is in excess of 1.5m in height. Council reiterates that the garage constitutes an additional storey and the proposed building is therefore a three storey building.

The proponent has provided an amended south elevation of the proposal as shown below:



Amended south elevation

A front fence has been provided to a similar height as the existing retaining wall to which the proponent advises would 'assist with reducing the apparent height of the building and provide screening of the basement entry'. However, it is considered that this does little to mitigate the overall scale of the building, which would present itself as a three storey building, particularly when viewed from Charles Street as illustrated below:



Amended front (east) elevation in plan form



○ **FRONT 3D**

Amended 3D perspective of proposed dual occupancy development

Council's Urban Designer has reviewed the proposal and advised that '*Despite conjecture as to whether the building is a three storey building, or a two storey building with basement, in its present form it will present three clear storeys to the street elevation*'. Further, to achieve the buildings 'basement car park' a significant proportion of the site will need to be excavated including most of the front yard from side to side boundary which will exacerbate the presentation of the three storeys to the street and therefore resultant building envelope, bulk, scale and mass impacts.

Council remains of the opinion that development proposes a three storey building and that the SEPP No. 1 Objection submitted 'without prejudice' remains flawed in its interpretation of the TLEP 2000.

The revised SEPP No. 1 Objection states 'the development is of a height and scale that is in context with the surrounding development', as the building comprises two storeys. Council does not concur with this statement and considers that the Razorback Precinct, particularly on the steeper, east facing slopes, is characterised by single and two storey detached buildings. Whilst there are examples of elements of three storey buildings in the locality, such buildings are stepped down the slope of the site and present as single or two storey buildings at the street frontage.

The approval of this development would set a precedence for a dramatic shift in the nature of development in the locality, particularly on the steeper, up-sloping sites.



Existing vacant site viewed from Charles Street with retained benching stepping up the site

The proposed building would be 9m in height above finished ground level, with the garages excavated into the hillside so that the rear of the structure would be below the existing level of the land.

It is of great importance to note that Council policy is in a transition stage whereby the Draft Tweed City Centre LEP 2012 is close to gazettal. This document would allow for a building that would be 9m above existing ground level (therefore an additional 2m in height at the front of the building facing Charles Street, and an additional 6m in height at the rear). Therefore, as the 9m height limit may be taken from existing ground level, this would result in a building that would be considerably higher than the proposed development currently before Council.

Council's Planning Reforms Unit have advised that it is likely that the Height of Buildings Map for the Tweed City Centre will be adopted and this sets a dramatic precedent for a change in character in this locality.

As detailed above, Council considers that the development constitutes a three storey building. However, whilst the proposal would be inconsistent with the current TLEP 2000, the imminent gazettal of the Draft Tweed City Centre 2012 Plan is a material consideration with this regard.

Clause 17 - Social Impact Assessment

Clause 17 of the TLEP requires a social impact assessment for development types likely to have a significant social impact in the locality. The criteria for a socio-economic assessment to be provided is 50 units for multi dwelling housing. Therefore, the applicant has not provided an assessment in this regard.

Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP provides for the management of acid sulfate soils. The land has been identified as having Class 5 acid sulfate soils. Council's Environmental Health Services has reviewed the proposal and has provided no objections with this regard.

Other Specific Clauses

Clause 39A – Bushfire Protection

The subject site is partially bushfire prone and therefore this clause applies. The development application was referred to the NSW RFS who have advised that they were not in a position to properly assess the application due to the lack of supporting evidence that clearly demonstrates the vegetation to the south would perform as a managed vegetation structure in the event of a bush fire.

The applicants were requested to provide such detail to Council. The RFS have since provided recommended conditions in relation to the maintenance of asset protection zones, connection of gas, design and construction and landscaping to be in accordance with the *Planning for Bush Fire Protection 2006* document.

Clause 54 – Tree Protection Order

The site is subject to Council's 2011 Tree Preservation Order (Koala Habitat mapping) and on this basis this clause applies. The site has been substantially cleared of vegetation and will not result in the loss of any known koala feed trees and does not form part of a broader area of vegetation. It is considered that the proposal would be unlikely to impact on Koala habitat.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

Clause 32B of the NCREP is applicable to this proposal as the subject land falls under the jurisdiction of the NSW Coastal Policy. The Policy specifically seeks to identify, protect and promote the aesthetic qualities of both natural and built environments. Further, the Policy states that in assessing development application proposals:

- (a) Council is required to consider the NSW Coastal Policy 1997 when assessing applications for development to which the policy applies.
- (b) Council is also required to consider the Coastline Management Manual
- (c) A consideration of the North Coast: Design Guidelines is required
- (d) Public access to the foreshore must not be impeded.
- (e) Council is required to consider whether the development would result in overshadowing of beaches or adjacent open space.

The proposal is considered not to be inconsistent with Clause 32B (a), (b) (d) and (e) as it is deemed unlikely that it will impede public foreshore access to the beach or result in significant overshadowing of adjacent public open space.

The previous report to Council advised that the proposal raised concerns in relation to several design principles of the North Coast: Design Guidelines that apply to all future coastal development, as follows:

- *Ensure development responds sensitively to the density and scale of the existing settlement;*
- *Ensure planning and development respond to the local topography and climate;*
- *In multi-dwelling development, provide a street entry for each dwelling, avoid battle-axe, villa-style development and design appropriately to topography, climate and aspect;*
- *Reinforce original subdivision patterns and streetscapes that characterise the settlement, maintain consistent setbacks from front and rear of lots in low density areas and continuous street and awning edges along core streets/perimeters of major blocks.*

The revised details within the Section 82A RoD have not altered this position and it is considered that, by virtue of the subsequent bulk and height of the proposed three (3) storey building, the development would not respond to the density and scale of the majority of surrounding development and would adversely impact on the visual amenity of the area. As detailed further within this report, the development also proposes a significant variation to the maximum allowable FSR under the current LEP 2010 regime which exemplifies Council's concerns in relation to the overall scale of the proposed building in relation to the capacity of the site.

Whilst it is appreciated that the development has taken the topography of the site into consideration, it is considered that by further stepping the building back and eliminating the three storey element, particularly at the street frontage, would ensure that the building responded to the scale of surrounding development. It is considered unfortunate that the proponent has not put forward an amended design with this regard as it would have gone some way to retaining the existing single and two storey character and reducing the dominance and impact of the building.

However, the proposed development would be consistent with the requirements as set out in the Draft Tweed City Centre LEP 2012 for building height and FSR calculation within the Razorback Precinct. As this document is nearing gazettal this is a key factor in the determination of this application.

Clause 43: Residential development

As a dual occupancy development, the proposed density is considered to be a reasonable response to the land use character of the area. However, within the development comprises a significant variation to the maximum allowable FSR control under the current TLEP 2000, which, by reason of the resultant height and bulk, would negatively impact on the character and visual amenity of the surrounding area, which predominantly consists of two-storey, low density residential development.

This position has not altered however, the Draft Tweed City Centre LEP 2012 increases the FSR to a ratio of 0.8, to which the development is consistent. It would therefore be difficult for Council to retain its position with this regard, given the impending Draft document increases the FSR for such developments in the Razorback Precinct.

SEPP No. 1 - Development Standards

SEPP No. 1 enables Council to assume the Director's concurrence to a variation to a development standard where it is considered that strict adherence is both unnecessary and or unreasonable in the circumstances of the case.

A detailed assessment of the original SEPP No. 1 Objection to vary the number of storeys permitted on the site was carried out within the original report to Council. Both the original and revised SEPP No. 1 Objection submitted as part of the Section 82A RoD reiterate the proponent's position that the development constitutes a two storey building.

It is considered that the amendments as included in the Section 82A RoD have not altered Council's previous assessment with this regard and Council is of the opinion that the building does in fact constitute three storeys. Under the current TLEP provisions, the proposed three storey would be contrary to the objective of Clause 16 and would, if approved set a harmful precedent for similar development in the locality. It is considered that, on the basis of the proponent's SEPP No. 1 Objection, the proposed three storey building would not be justified.

However, the revised SEPP No. 1 Objection does not take into consideration the imminent Draft Tweed City Centre LEP 2012 which is a material consideration in this regard. It is considered likely that this document will be adopted in the immediate future and, as detailed previously within this report, the document establishes a maximum height restriction of 9m as opposed to a maximum of two storeys. With this regard the proposed development would no longer be requesting a variation to the development standard and a SEPP No. 1 Objection would no longer be required.

Council is entering a period of policy change and therefore there is a requirement to balance the objectives of the current TLEP 2000 with the new objectives of the impending Draft Tweed City Centre LEP 2012. There may be a wish to retain the existing two storey character of the locality, to ensure that new development is responsive to the sloping topography and to reduce the overall visual impact of development along the ridgeline.

However, it is important to note that in the near future the proponent may wish to lodge a development application for a dual occupancy development located at 9m above the existing ground level, which would be consistent with the Draft Tweed City Centre LEP 2012. This may not result in a straightforward approval of such a proposal however it is a material consideration with this regard.

SEPP No. 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered, in general, to satisfy the matters for consideration in that the development proposes a dual occupancy development within an established residential zone.

The proposed three (3) storey height and resultant bulk and scale of the proposed development is still considered to be out of character with surrounding development, which is predominantly characterised by one or two storey buildings. As previously detailed within the original assessment, the proponent has argued that the sloping site leaves no opportunity for reducing the overall scale of the development however it is considered that this does not adequately justify a building of this scale and proportion. Under the current TLEP 2000 controls, this is heightened by the proposed significant variation to the maximum allowable FSR controls.

Whilst the overall scale and bulk of the proposal is considered to be out of character with the surrounding built form, the imminent establishment of a maximum height limit of 9m above existing ground level is of importance in the determination of this application. Further, as advised by Council's Urban Designer, the building does provide a level of articulation to somewhat reduce the overall visual bulk and mass of the attached dual occupancy.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates were submitted demonstrating that the proposal meets the required targets.

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

As detailed within this report the Tweed City Centre LEP 2012 has been adopted by Council and is awaiting gazettal by the Minister for Planning. In the Draft TLEP 2010 the site is located within the R3 – Medium Density Residential Zone. Within the R3 zone an Attached Dwelling is permitted with consent. The subject site is located within a zone with a height restriction of 9m.

However, Clause 4.3 (Height of Buildings) advises that development proposals should ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity and to limit the impact of the height of a building on the existing natural and built environment.

It is acknowledged that 9m is the maximum height limit within this zone and that a development proposal should consider surrounding urban character. The proposed building would be approximately 7m in height above existing ground level at the front of the site and 2.6m above existing ground level at the rear. The proposal therefore would, in principle, be consistent with this control.

Within the previous report to Council it was advised that as the Draft TLEP 2010 had not yet been adopted, that this document was not a material planning consideration. However since the determination of the application, the gazettal of this document and the Draft Tweed City Centre LEP 2012 are considered by Council staff to be imminent.

The Draft Tweed Heads DCP, which comes into force on gazettal of the Tweed City Centre LEP 2012, advises that, in relation to Ridgeline and Razorback Precinct:

'Development in the precinct is predominantly single detached dwellings stepping up the escarpment to take advantage of easterly views. The development controls anticipate minimal changes to the precinct with a two storey height limit for the majority of the precinct and some medium density buildings on the flatter areas east of Adelaide Street.'

Whilst the document advises that there would be 'minimal changes to the precinct', the controls default to Section A1 of the current DCP which stipulates a maximum building height of 9m. There appears to be a significant anomaly between the two draft documents with this regard.

It is acknowledged that the proposed building would significantly alter the character of the locality. The question is whether the existing two storey character should be preserved or whether a movement toward contemporary buildings of significantly greater scale is to be encouraged. However, as the Draft Tweed Heads DCP document states *'if there is any inconsistency between this Plan and the Tweed Local Environmental Plan, the LEP will prevail'*. On this basis it may be difficult to defend the refusal of the proposal, given the overarching policy document will establish a maximum building height of 9m from existing ground level in this locality.

For clarity, please refer to the table below that summarises the consistency of the proposal with the relevant policy documentation in relation to building height:

Policy document	Complies
Tweed LEP 2000	No (maximum 2 storey)
Draft Tweed City Centre LEP 2012	Yes (9m above existing ground level)
Section B2 DCP (Tweed Heads)	No (maximum 2 storey although no specific controls)
DCP 2008 Section A1	Yes (9m between finished ground level to highest point of building)
Draft Tweed City Centre DCP	No (maximum 2 storey although no specific controls)

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The previous report to Council acknowledged that, in general, the proposed development would be compliant with the controls detailed within the A1 Code. In some cases minor variations were considered to be justified, as detailed below:

Public views and vistas

Given the land slopes steeply from west to east it was considered unlikely that the proposal would impact on any public views from public places or obscure view corridors down the street.

Deep soil zones (DSZs)

The control specifies that DSZs are to be provided at the front and rear of the property. Although the opportunity for front DSZs is limited, the proposal generally complies with this control.

Rear DSZs are to have a minimum width of 8m or 30% of the average width of the site, whichever is the greater, and a minimum depth of 18% of the average length of the site up to 8m but not less than 5.5m. The rear DSZ has a width of 16m, with the DSZ encompassing the entire width of the site, which complies with the control. The rear DSZ has a depth ranging from 4.9m tapering to 1m which, given the constrained nature of the site is generally considered to be acceptable.

Above ground external living spaces, balconies and terraces

The development comprises a balcony to the front of the building with a depth of 3m which complies with the control (minimum depth 2.5m). The balconies for each dwelling are located adjacent to the main living areas and, whilst relatively small for dwellings of this size, are considered to be sufficient for outdoor recreation.

Questions were raised about the useability of the patios located on Level 2, given they would gain little sunlight, located at the rear of the building and adjacent to bathroom and utility areas.

Landscaping

The control requires development to provide useful outdoor spaces for liveability by coordinating the design of external living areas, deep soil areas and other landscaped areas with the design of the dwelling.

The development does not provide any internal access to the area of private open space at the rear of the dwellings. Concerns were raised about the useability of the area of private open space at the rear of the dwellings as well as the lack of integration between the external living areas and deep soil areas.

The control requires the provision of a landscaped front garden. Minimal area has been provided for landscaping in the front setback however given the constrained nature of the site this variation was considered justified.

Front, side and rear setbacks

The proposal was considered to accord with the front and side setback provisions. The front setback measures approximately 6m which is considered to be consistent with surrounding residential character. The control requires rear setbacks to measure 5m or the deep soil zone, whichever is the greater. The rear setback ranges from approximately 1m to 4.5m to the rear building line, or 5.5m to the edge of the patio. Given the constraints of the site it was considered that this variation was justified.

Carparking

The development proposes a double garage with the potential for an additional parking space in the driveway area which accords with the provisions of Section A2 of the DCP.

Building footprint

The proposed building would have daylight access from three sides of the building and therefore complies with the control.

Building separation

Given the proposed dual occupancy development is attached, a number of these controls were not specifically relevant to the proposal. However, it was considered that as living areas and bedrooms were located on upper floors, that adequate privacy and separation distances were achieved. Further, given adequate side separation distances had been provided, that it was unlikely that the proposal would impact on the residential amenity of adjoining properties.

Ceiling height

The proposal would be consistent with the Building Code of Australia requirements for ceiling heights (2.4m).

Sunlight access

Dwellings on allotments with side boundaries facing north, a minimum side setback of 4m should be required. The development proposes a side setback of 1.5m at the northern boundary. Given the constrained nature of the site it was considered that this variation was justified. However, it was considered that setting one of the units back from the other may have increased the north easterly light, as would the provision of internal light wells.

Visual privacy

The development proposes two balconies on the upper floor, both of which would be oriented toward Charles Street. As with all upper level balconies or terraces, there is the potential for overlooking towards neighbouring properties. In this instance, given the property to the northern boundary consists of front garden and to the south boundary, a right of way, it was considered that loss of privacy was unlikely to be a material consideration. Further, minimal windows are proposed to the side elevations.

Acoustic privacy

Details pertaining to air conditioners and the like have not been received. A condition could be applied to any consent to ensure such equipment does not exceed the background noise level by more than 5dB(A).

View sharing

It was considered that, in general, the proposal has been designed to minimise the impact to view corridors across the site.

Natural ventilation

All rooms would have operable windows provided to habitable rooms to allow cross-ventilation.

Fences and walls (front, side and rear)

It was generally considered that fencing would be in keeping with the appearance and design of the dwelling and would be consistent with the applicable controls. Please note that the height of retaining walls has been modified since the previous application details, as detailed below.

Roofs, dormers and skylights

The development proposes a contemporary roof form which provides articulation whilst minimising the impact at the site to the rear (in terms of view sharing and the like). Two skylights are proposed at the rear of the building and were considered unlikely to reduce the structural integrity of the building.

Elevations visible from the public domain

It was considered that the building clearly addresses the street with design elements such as garage doors, balconies, patio doors and the like clearly identifiable from the street, with the exception of front doors. It was considered that garages, whilst significant in scale, dominating the front elevation of the building, were integrated with the building design, being setback from the building line.

Minor elements

The application proposes clothes hoists, letter boxes and the like. A condition could be applied to any development consent ensuring that all minor elements are in accordance with the minor element controls.

Energy efficiency and water conservation

The application details include a BASIX certificate.

Waste management

The application details that any excess material would be appropriately removed from the site.

However, the following variations to the DCP controls are not considered to be justified and concerns remain about the impact of the proposal with this regard:

Streetscape character, external living areas and sunlight access

Section A1 advises that '*Dual occupancy housing is to be compatible with residential streetscape character*'. As previously detailed, the overall height and scale of the proposal, coupled with the dominance of the double garages on the ground floor, is considered to be inconsistent with surrounding development and detrimental to surrounding streetscape character. Please note the photograph below that illustrates the dominant single and two storey, low density character of the Razorback Precinct.



Razorback Precinct viewed from Steep Street

The DCP also specifies that each dwelling is to be designed so that the access way to the front door is clearly identifiable from the street. Separate pedestrian access is not provided at the front of each dwelling.

Further, Section A1 stipulates that *'Each dwelling must provide a ground level with at least one habitable room, which must have an adjacent external living area located on ground... A ground level comprising solely carparking is not acceptable'*. The ground floor of the proposal consists solely of carparking. In some respects, given the topography and constrained nature of the site a variation of this control may be justified.

Council considers that a reduction to the height of the development, by stepping the building back into the site, would reduce the scale of the building so that it would be more in keeping with surrounding development.

Further, the internal reconfiguration of floor space (for example: reducing or removing Level 1 patio and setting services to the rear of the building; reconfiguring service, landing areas and lifts; reducing bedroom size on Level 2; providing light wells to staircases; reducing roof over Level 2 balconies and so on) may provide greater opportunity for integration between the internal and external living areas (open space at the rear), improve solar gain and overall unit amenity.

There may also be opportunity to step back one unit from the other to reduce the dominance of the proposed double garages and improve solar gain from the north east.

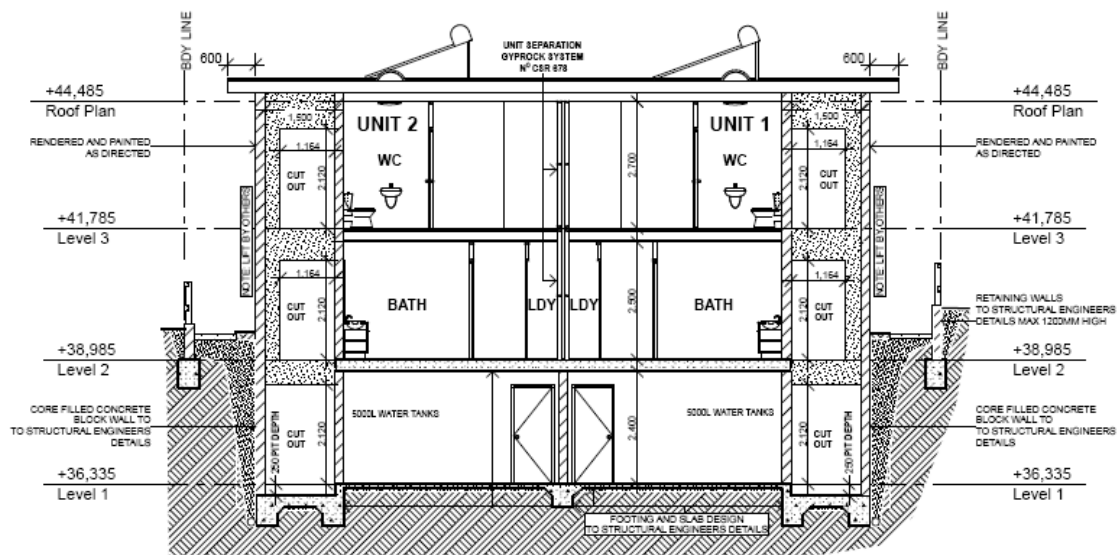
Such adjustment to the proposal, even if three storey elements remained, would reduce the bulk of the building and soften the impact of the development on the street scene, consistent with the intentions of the Draft Tweed City Centre DCP.

Cut and fill

The DCP requires that alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling would be inappropriate. It also advises that dwellings must not be designed to be contiguous slab on ground type if the building site has a slope of greater than 10%.

The site has a slope of approximately 26% and whilst the step in slab design is acknowledged, it is considered that an additional step would be a preferable solution with this regard as the DCP encourages pole or pier construction or multiple slabs that would minimise the extent of cut and fill.

Further, the DCP requires retaining walls to be a maximum of 1.2m in height; for cut areas to be setback from the boundaries by at least 900mm; and fill areas to be setback by a minimum of 1.5m. Within the original application details, the proponent advised, that due to the limited size of the site the development would provide 1.2m high retaining walls within 900mm of the side boundaries, with higher retaining being accommodated in the stepped building footprint, as shown in the following plan:

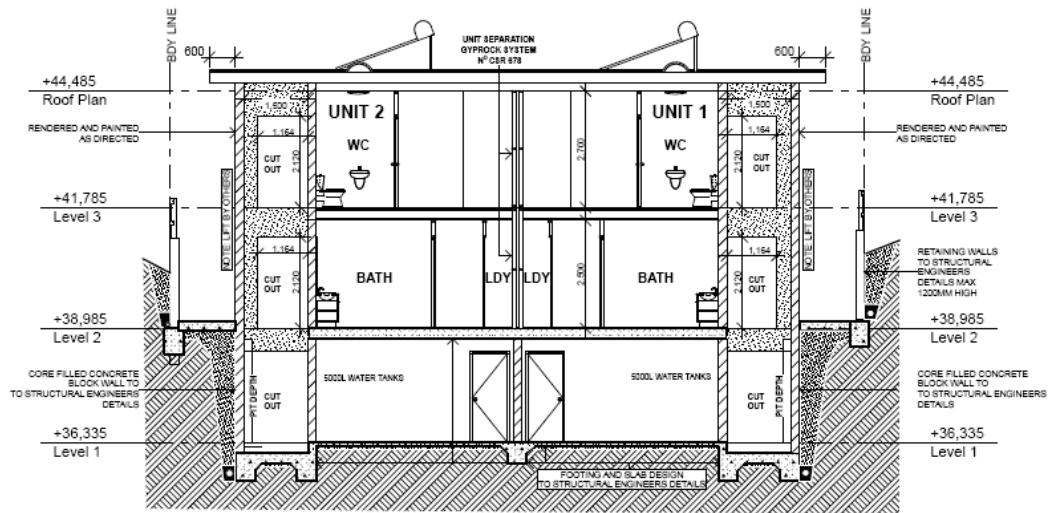


SECTION C-C
1:100 @A3

Original Section C-C through the building showing minimal retaining walls at the side boundaries

Council's Development Engineer previously advised that excavation to the site was generally minimal with the majority of excavation being contained within the building footprint. Within the previous assessment it was considered that this variation to the DCP controls was justified, given the constraints of the site in relation to size and topography,

The amended details appear to increase the height of retaining walls at the side boundaries with proposed retaining walls ranging from 1.2m to 2.0m, with 0.9m high fencing above as shown in the diagram below:



SECTION C-C
1:100 @A3

Revised section C-C through the building showing significant retaining walls at the side boundaries

The height of the retaining walls (2m) at this section of the building, coupled with the fencing on top, represents a substantial variation to the cut and fill requirements. The proponent has not provided additional justification for these variations, modified to take consideration of topography on the adjoining properties, to the DCP controls in relation to cut and fill. However, within the original application details, the proponent advised that the design of the development balances the need to minimise building bulk, provide view sharing and reduce external retaining.

It is acknowledged that the overall bulk of the building has been reduced by back filling into the site, however there is no escaping that the scale of the building would be considerable in comparison to surrounding development. However, it is of considerable importance to note that the Draft Tweed City Centre LEP 2012 establishes a maximum height limit of 9m above existing ground level. To comply with the cut and fill requirements would result in the building being constructed above the existing ground level, which would result in significantly greater concerns in relation to bulk and scale and detrimental impact to streetscape character, as well as a negative impact on surrounding residential amenity in terms of overlooking, loss of views and the like.

The balance needs to be made between the objectives of the DCP, in ensuring that development responds to the slope of the site, with the impending Draft Tweed City Centre LEP 2012 that establishes a building height limit of 9m above existing ground level.

Basement carparking

The proponent maintains that the development comprises two storeys over a basement garage. However, the applicant has not provided any consideration in regard to the control that sets out standards for basement carparking (i.e. *basement carparking cannot extend more than 1m above ground level where it faces a public street or public space*).

The carparking area clearly extends more than 1m above ground level where it faces Charles Street (by approximately 2.3m) and the development would therefore not satisfy the requirements of this control.

Garages

The DCP seeks to ensure that garages do not dominate the street and requires garage doors to comprise less than 50% of the building elevation. The proposed double garages constitute 80% of the building elevation and therefore the ground floor of the building is dominated by an enclosed and blank frontage, with habitable rooms located on the upper floors.

Drawings illustrating how the mandatory controls in relation to the dominance of garages have been submitted, indicating that, given the steeply sloping and constrained nature of the site, setting the garages behind the front of the building line is not achievable. The proponent has advised that alternative options were considered for the garage entries, but none were considered feasible and that, as a design solution, garage entries were designed to present as a 'base' to the building with a contemporary door to improve presentation.

In general this variation is considered to be justified, given the sloping nature of the site, however, as previously detailed, it is considered that the dominance of the garages, coupled with the two upper floors immediately above, does increase the bulk and scale of the proposed development.

Floor Space Ratio

An additional variation is requested in relation to FSR. The proponent advises that the FRS is 0:73:1. The required FSR is 0:55:1 for attached dual dwellings that cover more than 50% of the site.

Within the previous assessment of the proposal the FSR of the building was calculated to be 0:80:1 (based on a floor area of 364m²). This equated to a variation of an additional 116m² of floor space to that specified in the DCP. Revised calculations of the floor area (excluding balconies, lifts and measured from the internal face of external walls) indicate a floor area of approximately 318m². As the site area measures 452m² the FSR is calculated to be 0:70:1.

Within the previous application details, the proponent stated that as the development accords with key controls relating to building setback, impervious area, deep soil zones and provides a high standard architectural design, that the proposed variation to the FSR was justified.

Given the constrained nature (both in size and topography) of the site, a minor variation to the mandatory controls is in some respect considered justified. The variation to the current FSR controls (0:55:1), combined with the overall height, scale and bulk of the building, are not considered to be minor and would have a significant impact on the character of the Razorback precinct. The limited area for deep soil zones and external living areas; the dominance of the driveway and reduced landscaping in the front setback; the proximity of the building to the boundaries of the site as well as the overall height of the building signifies that the overall scale of the development exceeds the capacity of the site.

However, it is important to note that whilst the proposal does not comply with the current FSR controls for the locality, the proposal would accord with the Draft Tweed City Centre LEP 2012 document which will establish a FSR of 0:80:1. At a time of policy transition, a balanced assessment in relation to the protection of the character and appearance of the locality, combined with the need to encourage medium density forms of development is therefore required.

A2-Site Access and Parking Code

Section A2 of the DCP requires a total of two (2) parking spaces per unit plus provision for driveway parking of another vehicle. The proposed development provides a double garage for each unit as well as an additional parking space per unit, located on the driveway.

The proposal therefore complies with Section A2 of the DCP.

B2-Tweed Heads

The current Tweed Heads DCP advises that the Razorback Precinct is comprised of single and double storey detached dwelling-houses with the majority of the precinct being zoned for medium density housing. The precinct objectives are as follows:

- *Facilitate the development of the area north of First Avenue as a predominantly medium density residential area, and the area south of First Avenue as a low density residential area;*
- *Retain the Razorback Hill medium density zone as an attractive residential area, with buildings that respect the slope of the land and allow for the retention of views available from adjoining land;*
- *Encourage development to take advantage of available views and climatic effects;*
- *Ensure that development on visually prominent sites is relatively unobtrusive;*
- *Preserve the traditional leafy character of the precinct.*

Further, B2.7.3 advises that west of Adelaide Street, *'buildings should step down the slope of the land, such that they are no more than 2 storeys at any one point'*.

There are concerns that the proposed development would be inconsistent with the objectives of the precinct, particularly in relation to the provision of buildings that respect the slope of the land and in ensuring that development is relatively unobtrusive.

It is considered that the proposal does not respect the existing scale of built development and the proponent has not provided additional detail in this regard (such as photo-montages of the impact of the proposed building on the landscape).

Section B2 of the DCP discusses the need to preserve the low density character of the Razorback Precinct. However, as detailed at length within this report, the impending gazettal of both the Draft Tweed City Centre LEP 2012 (that establishes a maximum height limit of 9m) and the Draft Tweed Heads DCP (that has no specific controls in relation to building height and defaults to the LEP) is of material consideration with this regard.

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

Clause 92(a) Government Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. The subject site is governed by the requirements of Clause 92(a) Government Coastal Policy. The proposal does not pose a threat to coastal processes.

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

Not applicable to the proposed development.

Tweed Shire Coastline Management Plan 2005

Not applicable to the proposed development.

Tweed Coast Estuaries Management Plan 2004

Not applicable to the proposed development.

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

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

Whilst the contemporary design and appearance of the buildings may not necessarily be in keeping with surrounding development, it is considered that they would provide a modern contrast and, by reason of the architectural detailing, would contribute to visual amenity and design interest within the locality (such as glazing, balconies, use of contrasting materials and the like).

However, the impact of the height and scale of the proposed development, coupled with the dominance of the double garages would impact on the visual amenity and character of the Razorback Precinct.

However, Council's Urban Designer has advised that, despite the three storey presentation to the street, the building design does provide a level of articulation to somewhat reduce the overall visual bulk and mass of the building as follows:

- the first level slightly cantilevering over the garage level which will have the visual result of recessing the garage doors resulting in a deep shadow being cast across them;
- the upper levels consist of glass balustrade and a pattern of sliding doors and windows providing physical and visual connections between the living space and the balcony areas and 'layering' to the elevation
- a single pitching roof supported by an expressed strut on either side of the attached building provides further articulation;
- a strong blade wall protrusion physically and visually separates the two attached units;
- the balconies provides an extra element of elevation depth further articulating the facade.

It is considered that the choice of material finishes and colours could be more reflective of the local landscape character and varied to assist in breaking down the overall bulk of the building. It is noted that the predominant built form character of Charles Street includes a mix of timber framed buildings with lightweight cladding including weatherboard, FC sheeting, colourbond cladding with timber detailing. The development proposes painted render. Council's Urban Designer has advised that the ground level could remain predominantly painted render with upper floors being varied to include weatherboard.

Combined with more material variation, colour could provide a stronger relationship with existing landscape character. Colours that are complimentary with the natural landscape (i.e. timber, stone, metal) may visually provide the elevation with more depth than the proposed white and beige. Council's Urban Designer has advised that a darker garage level will assist in 'nestling' it into the site and draw the eye to the upper two levels which cantilever out and beyond this lower level.

Should Council be minded to approve the proposal, there may be opportunities to soften the development through appropriate use of materials (such as a contrast of timbers, glazing and rendered sections with a variety of natural paint colours, as opposed to large expanses of painted render).

Further, the opportunity exists for further integration of landscape elements and landscape treatment to the front corners of the site. At present it is proposed that the front of the lot be excavated almost from boundary to boundary, with the front boundary delineated by a part masonry and vertical (steel) fence. It is considered that if part of the existing ground level were maintained (not excavated) and landscaped, the visual impact of the double attached garage doors would be lessened. Conditions of the consent to ensure appropriate boundary treatment and landscaping (street trees where possible with shrubs or varying heights and colours) could be applied with this regard.

Access, Transport and Traffic

As previously detailed within this report adequate parking and access is provided for the proposed dual occupancy development, with the proposed access way being 6m in width which complies.

Cumulative Impacts

The previous report to Council advised that the approval of this development application would set a undesirable precedent for similar development within the locality and within the Shire as a whole and that the purpose of the LEP and other relevant planning policy is to ensure development would be consistent with the surrounding built form and provide liveable and sustainable development that would make a positive contribution to surrounding residential and visual amenity.

As previously detailed, whilst there may be examples of other buildings that comprise three storey elements in the vicinity of the site, it is considered that, under current policy, the proposed three storey building, coupled with the overall scale and bulk of the building, would be inconsistent with the overwhelming majority of built form in the locality and would set an precedent for similar development in the future.

However, the impending Draft Tweed City Centre LEP 2012 is of key importance in the determination of this application as the proposal would, in general terms, be consistent with the height limit for the zone.

(c) Suitability of the site for the development

Topography

The development does take consideration of the topography of the site and, given the steeply sloping nature of the site, Council appreciates that strict compliance with Clause 16 of the TLEP 2000 as well as the mandatory controls in relation to FSR may present difficulties in relation to building design and financial viability of the proposal.

Despite compliance with the impending policy documents, it is considered that there may be possibility to further step the building back into the site (by reducing the footprint of Level 1 and 2; and internal reconfiguration for example) to reduce the overall height and bulk of the building.

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

Notification of the original application generated two submissions, the main concerns of which related to the impact of the construction phase to surrounding properties (No. 44 and No. 46 Charles Street); increased traffic congestion from Steep Street to Adelaide Street and in relation to overlooking from the front balcony back towards the living area of No. 29 Charles Street. In this regard the following response was put forward:

Site stability

Council's Development Engineer has reviewed the proposed development and has provided no objection in relation to slope stability. Providing the retaining walls are certified by a suitably qualified Structural Engineer no further consideration with this regard was required.

Traffic congestion

The development proposes adequate onsite carparking to accommodate the proposed dual occupancy development, in compliance with the requirements of Section A2 of the DCP.

Overlooking

The proposed upper floor balcony (Level 2) would be set back from the neighbouring property (No. 29 Charles Street) by approximately 8m and separated by a right of carriageway. This would therefore limit the potential for overlooking, noise or disturbance to the adjacent property. Further, the proposed balconies predominantly overlook Charles Street itself and the front garden aspect and side living room of the neighbouring property (No. 29 Charles Street). It is not considered that overlooking would cause an unacceptable impact to the residential amenity of the occupants of the adjacent property so as to warrant refusal or redesign of the proposed development.

Three submissions have been received in relation to the current Section 82A RoD before Council. The main concerns relate to: the impact of construction on surrounding residents (considered above); traffic congestion (also considered above); the height of the proposed building and the impact this may have on the development potential of the lot at the rear of the site. One submission was received from a neighbouring property in relation to the overall size and bulk of the development being too large for the 450m block.

Loss of views and privacy

Concerns have been raised from the owner of the property at the rear of the subject site who considers the height of the proposal may impede the future development potential (in relation to views and privacy) of the site (Lot 22 in DP 1124438).

Whilst Council concurs that a two storey building would be more suitable on this sloping site, the impending Draft Tweed City Centre LEP 2012 establishes a height limit of 9m above existing ground level. This may have a greater impact on views at the rear of the subject site.

The development is generally consistent with the provisions of A1 in relation to rear setbacks and the like.

Size and bulk

This report has considered the issue of the scale of the building and whether it is appropriate on the subject site or appropriate in this locality. This presents intrinsic difficulties in the determination of this proposal, given the proposal would be consistent with the impending policy document.

(e) Public interest

It is considered that the proposed dual occupancy development would not impact on the public or community interests. However, as detailed, there are inherent difficulties in balancing the current policy criteria of retaining a two storey character for this locality against the impending policy documents, to which the development would be consistent.

OPTIONS:

1. Approve this Section 82A RoD with conditions of consent in relation to appropriate materials and landscaping; or
2. Refuse this Section 82A RoD in accordance with the previous recommendation for refusal.

CONCLUSION:

As detailed within this report the proponent has consistently attempted to present the development as a two storey building that would be in keeping with surrounding development. The SEPP No. 1 Objection submitted as part of this Section 82A RoD continues to provide this argument and, in Council's opinion, fails to adequately justify the variation to the development standard with this regard.

However, Council is undergoing a period of change with the gazettal of the Draft Tweed City Centre LEP 2012 and Tweed LEP 2010 expected in the near future. Since the application was originally determined this has become a material consideration and critical in the determination of the current Section 82A RoD currently before Council.

COUNCIL IMPLICATIONS:

a. Policy:

Refer issues to Council's Planning Reforms Unit for consideration to clarify controls between planning documents for the Tweed City Centre Local Environmental Plan 2012, the Tweed City Centre Development Control Plan and the Tweed Development Control Plan Section A1.

b. Budget/Long Term Financial Plan:

If an appeal is pursued by the applicant legal costs will be incurred. The applicant was required to exercise available appeal rights to enable Council to consider the Section 82A Review of Determination application.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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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14 [PR-CM] Development Application DA12/0215 for a Change of Use to Daytime Respite Care Centre with Associated Signage, Car Parking and Landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads

SUBMITTED BY: Development Assessment

FILE NUMBER: DA12/0215 Pt1



Civic Leadership

SUMMARY OF REPORT:

Council at its meeting of 25 September 2012 resolved as follows:

"RESOLVED that this item be deferred for a Workshop."

In accordance with this resolution a Workshop was held on 18 October 2012.

A full copy of the original report to Council's meeting of 25 September 2012 is reproduced below.

Original report to Council's meeting of 25 September 2012

Council is in receipt of a Development Application to establish the subject site as a daytime respite care centre. The proposal includes some demolition and alterations to an existing dwelling in order to facilitate the change of use.

The existing floor plan is to be modified to allow for functional operational areas and office space. Car parking, landscaping and business identification signage is included in the application. The proposal provides:

- Operation of a daytime respite care centre from an existing dwelling to cater predominantly for the support needs of homeless people or people at risk of homelessness, including youths over 16 years of age;
- A safe meeting place, access to advice and the ability to socialise;
- Supervision/operation of the facility by two full-time trained staff with a team of trained volunteers to assist paid staff;
- Availability of meals, storage, laundry and bathroom facilities with access to computer, internet and telephone;
- Operation hours - Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access) with Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access)

The facility is to be operated by a not-for-profit organisation and monitored by a Diocesan Advisory Board. It will be exclusively operated to assist physical, social and cultural development and welfare of homeless persons or persons at risk of homelessness.

The applicant states that the area is *experiencing great housing stress which contributes to the homeless population* and that *the facility would bring human comfort to those without a home* with the provision of essential services.

The proposed use responds to a recognised demand for such a facility within the Tweed Shire.

The Director of Planning and Regulation requires the development application to be reported to Council due to the sensitive nature of the proposal and with regard to Council's additional role as advocate for such facilities. Strong objections received during the exhibition period maintained that the proposal would result in a negative impact upon the community.

The proposal is best defined as 'respite care centre' in accordance with the Tweed Local Environmental Plan 2000 (TLEP 2000) and is permissible with consent in the 2(b) Medium Residential Zone.

The existing parcel of land was created in 1915. The existing dwelling was approved by Council on 23 July 1987 following assessment of D87/0282.

The proposal was required to be placed on public exhibition. 10 objections were received during the exhibition period with one letter of support received as a late submission. Matters raised within the submissions have been considered in the assessment of the proposal and addressed and/or resolved by the applicant.

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

RECOMMENDATION:

That Development Application DA12/0215 for a change of use to daytime respite care centre with associated signage, car parking and landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and:

- Plan No. 1417D Amendment 1 Sheet 1 (Site Plan) as amended in red, prepared by Parameter Designs and dated 8 August 2012**
- Plan No. 1417D Amendment 1 Sheet 3 (Street Elevation; Sign Plan; Sign Elevation; Symbol Plan; Symbol Elevation) prepared by Parameter Designs and dated 8 August 2012**
- Plan No. 1417D Amendment 1 Sheet 5 (Proposed Floor Plan) prepared by Parameter Designs and dated 8 August 2012**
- Plan No. 1417D Amendment 1 Sheet 6 (Elevations) prepared by Parameter Designs and dated 8 August 2012**

except where varied by the conditions of this consent.

[GEN0005]

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.

[GEN0015]

3. Additional advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]
5. **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]
6. **Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.**

[GEN0245]
7. **The development is to be carried out in accordance with Councils Development Design and Construction Specifications.**

[GEN0265]
8. **The approved signage and symbol are not illuminated and do not include moving graphics or signage elements that flash, flicker or are animated in any way.**

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. **The developer shall provide six (6) 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. The disabled car park shall be designed in accordance with Australian Standard AS2890.6.**

The developer shall provide two (2) bicycle parks in accordance with Australian Standard AS2890.3.

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]
10. **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:

2.86 Trips @ \$822 per Trips \$2351

(\$815 base rate + \$7 indexation)

S94 Plan No. 4

Sector1_4

[PCC0215]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4: 0.2 ET @ \$12150 per ET \$2430

Sewer Banora: 1 ET @ \$5838 per ET \$5838

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

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

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

[PCC0265]

12. 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]

13. A detailed plan of landscaping generally in accordance with amended Landscaping Concept Plan Issue B (prepared by Bizscapes and dated May 2012) shall be submitted to Council and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate:

- Incorporating the two mature fig trees at the front of the site, and
- Indicating consistency with approved Site Plan (Plan No. 1417D Amendment 1 Sheet 1, as amended in red, prepared by Parameter Designs and dated 8 August 2012).

[PCC0585]

14. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

15. 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 for widening the existing access "splay" in accordance with Section A2 - Site Access and Parking Code of Council's consolidated Tweed Development Control Plan and Council's Driveway Access to Property - Part 1 Design Specification June 2004.
- (b) Provision for a concrete footpath 1.2 metres wide and 100 millimetres thick to be constructed on a compacted base along the entire frontage of the site in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013.

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

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

[PCC0895]

16. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
 - (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

17. 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]

18. Prior to the issue of a construction certificate, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate.
- a. Floor plan
 - b. Layout of kitchen showing all equipment including separate hand basin
 - c. All internal finish details including floors, wall, ceiling and lighting
 - d. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

19. 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]

20. 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]

21. 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]

22. 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]

23. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

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

[PCW0835]

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

[PCW0985]

26. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

28. 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]

29. The provision of 6 off street car parking spaces and 2 bicycle spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

30. 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]

31. 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]

- 32. 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]

- 33. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:**

- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.**
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.**
- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.**

[DUR0385]

- 34. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.**

[DUR0395]

- 35. 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]

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

[DUR0415]

- 37. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.**

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

38. 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]

39. 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]

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

[DUR1015]

41. 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]

42. Landscaping of the site shall be carried out in accordance with the approved landscaping plan.

[DUR1045]

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

[DUR1075]

44. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicant's responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

45. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

46. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

47. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.
- [DUR1695]
48. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
- [DUR1705]
49. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.
- [DUR1725]
50. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.
- Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.
- [DUR1735]
51. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
52. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
- [DUR1885]
53. 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 Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
54. 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]

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

[DUR2185]

56. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling;
- (d) completion of work and prior to occupation of the building.

[DUR2485]

57. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

58. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

59. 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]

60. 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]

61. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

62. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing.

[POC0255]

63. All landscaping work is to be completed in accordance with the approved plan prior to any use or occupation of the building.
[POC0475]
64. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.
[POC0515]
65. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.
[POC0525]
66. 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]
67. 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]
68. 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]
69. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.
[POC1045]
70. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.
[POC1055]
71. Prior to occupation of the development, Council must undertake a final inspection of the works and be satisfied that all conditions of consent have been complied with.
[POCNS01]
72. Prior to the issue of an occupation certificate the swimming pool located over No. 7 and No. 9 Boyd Street is to be removed and the metal clad enclosure attached to the building at No. 7 Boyd Street which encroaches over the side boundary is to be removed. After the removal of this attachment the southern elevation of this building is to be restored to its previous form and should comply with the BCA in respect of weatherproof requirements and boundary setbacks.
[POCNS02]

USE

73. 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]

74. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{Aeq}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

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

- * Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access)
- * Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access).

[USE0185]

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

[USE0225]

77. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

78. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

79. No residential accommodation shall be provided to clients at the premise.

[USENS01]

80. The outdoor recreation area shall be screened by fencing with a minimum height of 1.8m and associated landscaping to the satisfaction of the General Manager or his delegate.

[USENS02]

81. Activities at the premise shall be supervised by suitably qualified staff at all times.

[USENS03]

82. The two mature fig trees at the front of the property are to be retained and suitably maintained as part of the overall landscaping management of the site.

[USENS04]

REPORT:

Applicant: Wakefield Planning
Owner: Mr Milton J Crompton & Mrs Marilyn J Crompton
Location: Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$56,000

Background:

Council is in receipt of a development application for a change of use to a daytime respite care centre with associated signage, car parking and landscaping on a parcel of land zoned 2(b) Medium Density Residential. The proposed change of use reconfigures parking arrangements, landscaping and the floor area of the existing dwelling in order to create a suitable, secure facility to deliver daytime respite services to homeless people in need within the Shire.

History

The subject site was created by way of Council approved subdivision on 6 May 1915. The current three bedroom brick veneer dwelling and single garage on the site was constructed following approval in 1987. Aerial imagery from 1976 indicates that the site contained a previous dwelling located at the front of the site within close proximity of the Boyd Street road reserve.

The adjacent premise at 7 Boyd Street is a Butcher shop. The current owners have utilised 7 and 9 Boyd Street as one property. The swimming pool, shade sail and metal clad 'smoke house' enclosure associated with the Butcher shop encroach over the shared boundary. The current owner is in the process of removing the encroachments in order to meet the terms of agreement of property transfer.

A condition of development consent is recommended prior to occupation to ensure that these structures are removed and that the southern elevation of the Butcher shop is to be restored to comply with the Building Code of Australia in respect of weatherproof requirements and boundary setbacks.

The Subject Site

The subject site is a generally flat, predominantly grassed and regular, rectangular shaped allotment with a total area of 760m², depth of 48.768m and 15.24m frontage to Boyd Street. It is improved by an existing three bedroom, three bathroom dwelling and single garage (set to the rear of the site) with basic landscaping and 3m wide concrete driveway. Brick pillar and white picket fencing defines the front boundary. Side and rear boundaries are fenced in colorbond with a minimum height of 1.2m and maximum height of 1.8m.

The Proposed Development

The applicant seeks consent for a change of use from a residential dwelling to a daytime respite care centre. The proposal includes:

- Operation of a daytime respite care centre from an existing dwelling to cater predominantly for the support needs of homeless people or people at risk of homelessness, including youths over 16 years of age;
- Provision of a safe meeting place, access to advice and the ability to socialise;
- Supervision/operation of the facility by two full-time trained staff with a team of trained volunteers to assist paid staff;

- Availability of meals, storage, laundry and bathroom facilities with access to computer, internet and telephone;
- Operation hours - Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access) with Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access);
- Minor works such as repainting, refurbishment, provision of an outdoor seating area and improved bathroom facilities;
- Associated business identification signage and 'symbol' (cross);
- Associated landscaping and removal of non-native vegetation; and
- Provision of on-site car parking.

Modifications to the dwelling to facilitate the change of use include:

- Use of the main bedroom and adjoining en-suite as a staff office/bathroom facility;
- Use of second bedroom as an office for the trained volunteer(s);
- Use of third bedroom for client use (computer, internet, telephone etc.);
- Use of the main bathroom for female clients;
- Third bathroom connected to the garage to be enlarged and made suitable for male clients;
- Remainder of garage modified for client storage;
- Upgrading of kitchen to meet food code requirements;
- Upgrading of laundry;
- Six car spaces to be located on the front portion of the allotment; and
- Upgrading of fencing.

No residential accommodation is to be provided and no earthworks are proposed. Facilities are to be accessible to people with disabilities. Conditions of development consent regulate the provision of these facilities in accordance with relevant legislation and will be further monitored at construction certificate stage.

The facility is to be operated by a not-for-profit organisation and monitored by a Diocesan Advisory Board. It will be exclusively operated to assist physical, social and cultural development and welfare of homeless persons or persons at risk of homelessness.

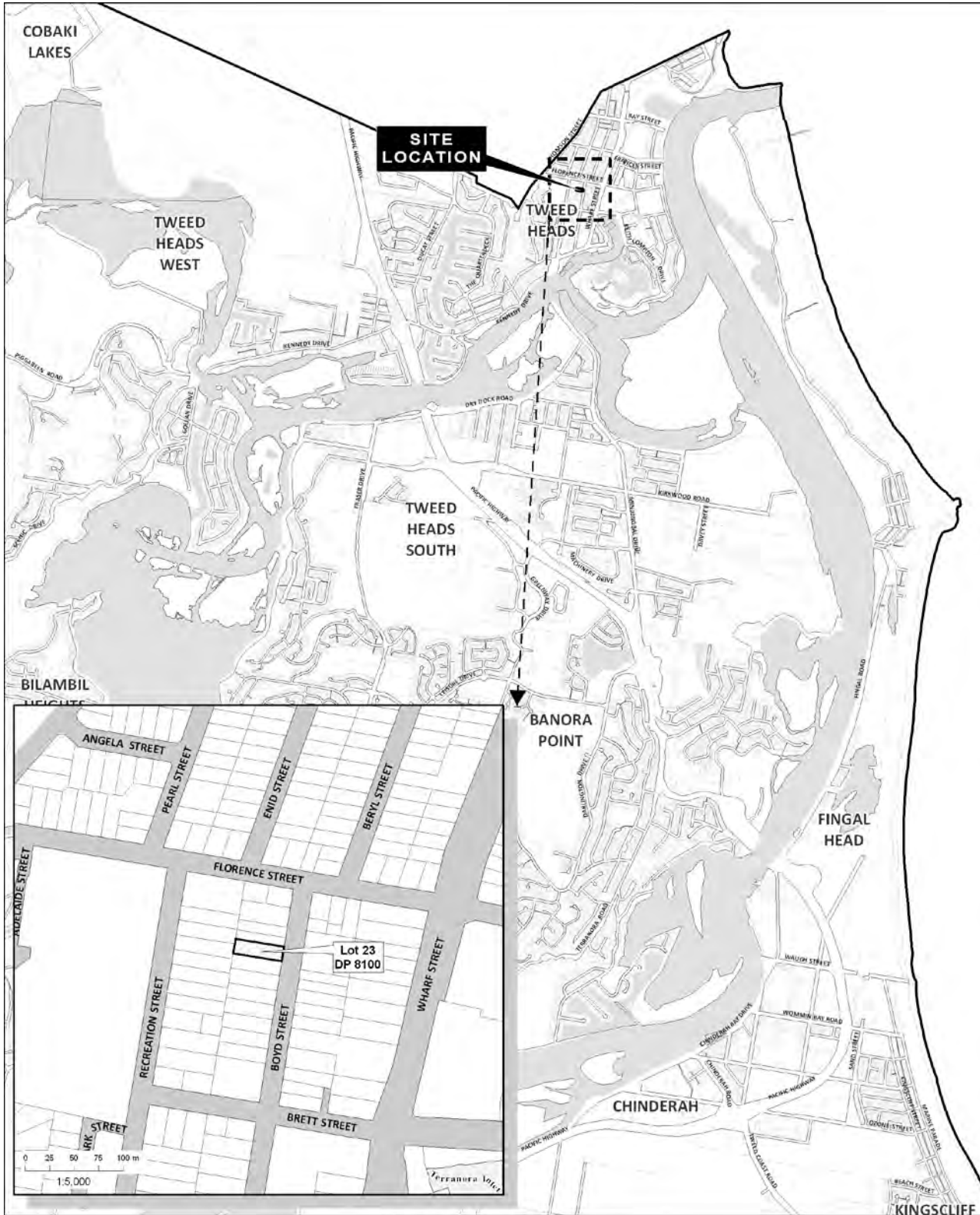
The applicant states that the area is *experiencing great housing stress which contributes to the homeless population* and that *the facility would bring human comfort to those without a home* with the provision of essential services.

Pre-lodgement consultation was undertaken by the applicant with residents within the vicinity of the proposal. The consultation consisted of doorknocking over a two day period with correspondence left with residents for further contact. Application documentation included an appraisal of the pre-lodgement consultation. Similar issues were raised following public notification of the proposal during assessment.

Summary

Having regard to the site's characteristics, the site history, intended use, proximity of surrounding residential and commercial development, amenity issues and an assessment against relevant clauses of the TLEP 2000, the proposed change of use to a daytime respite care centre with associated signage, car parking and landscaping is, on balance, considered suitable for the location and therefore the proposed development is recommended for approval.

SITE DIAGRAM:



Locality Plan

Lot 23 DP 8100
No. 9 Boyd Street, Tweed Heads

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability, including without limitation, liability in negligence for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagnostic only. It should not be used for survey or construction purposes and prior to any excavation a 'Call Before You Dig' enquiry must be made by calling 1311. This information contained on this document remains valid for 30 days only from the date of supply.

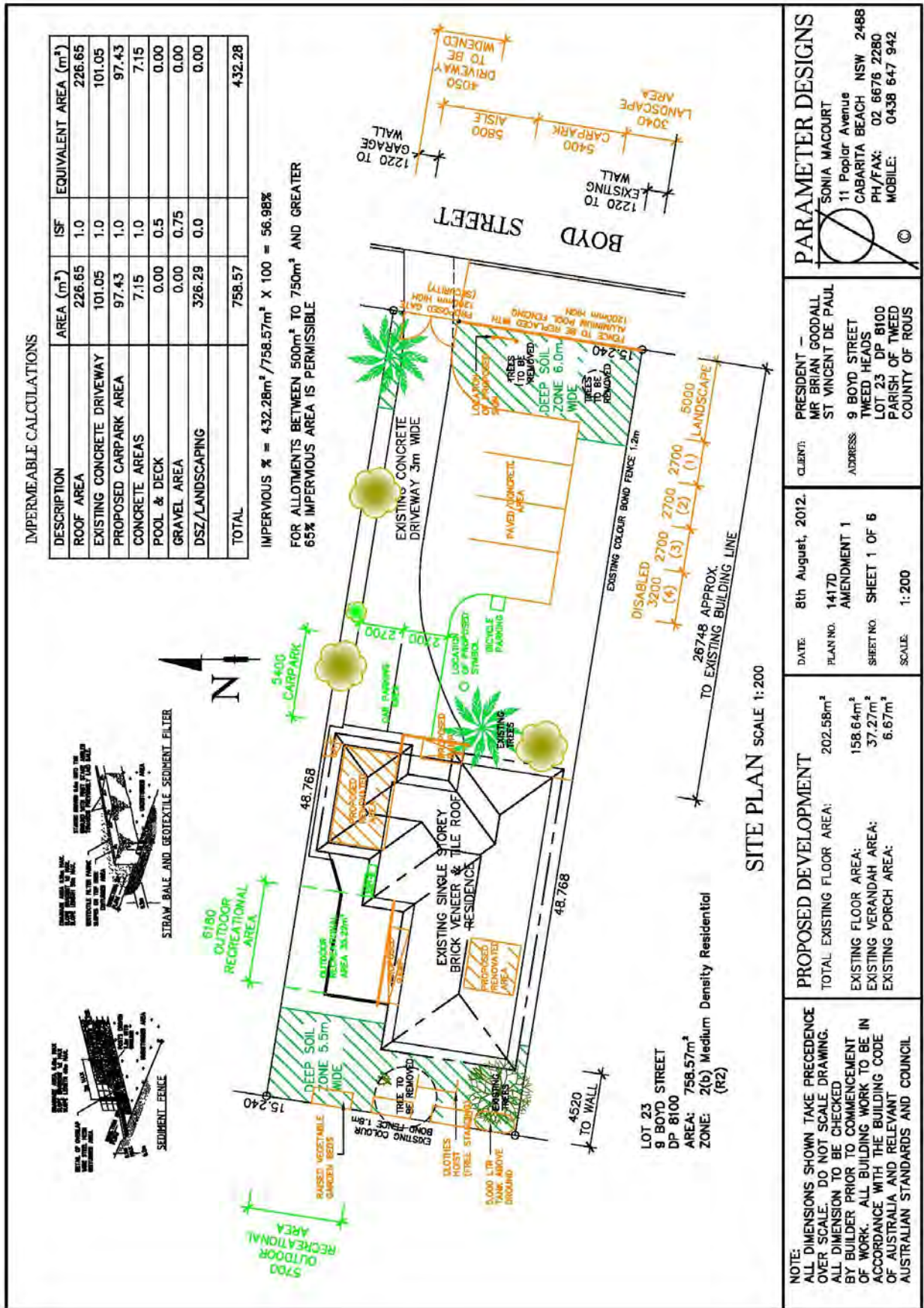
Cadastre: 17 September, 2012
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Boundaries shown should be considered approximate only.

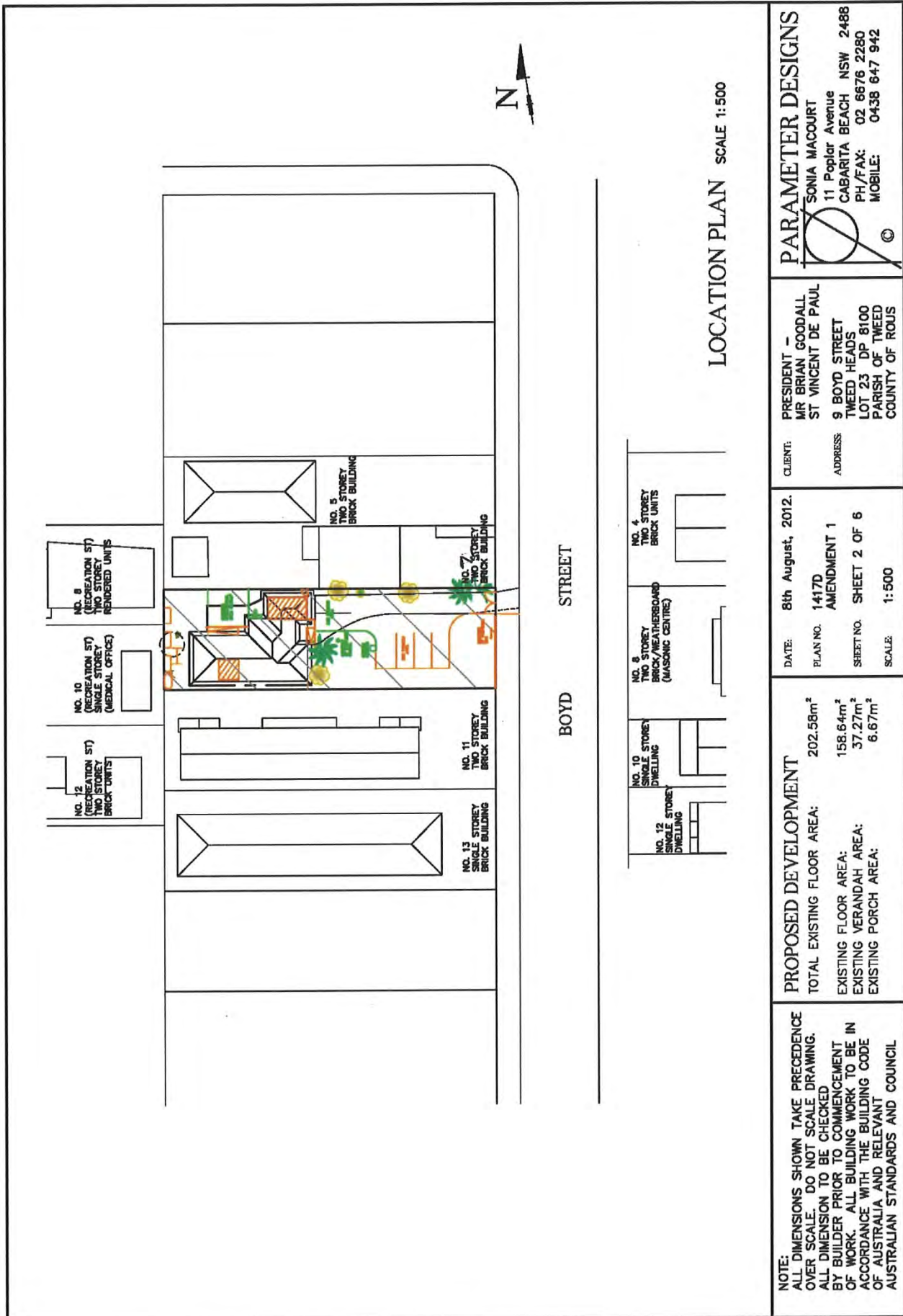


Civic and Cultural Centre
3 Tumbulgum Road
Murumbidgee NSW 2484
PO Box 816
Murumbidgee NSW 2484
T | (02) 6570 2400 | 1300 292 872
F | (02) 6570 2429
W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au



DEVELOPMENT PLANS:





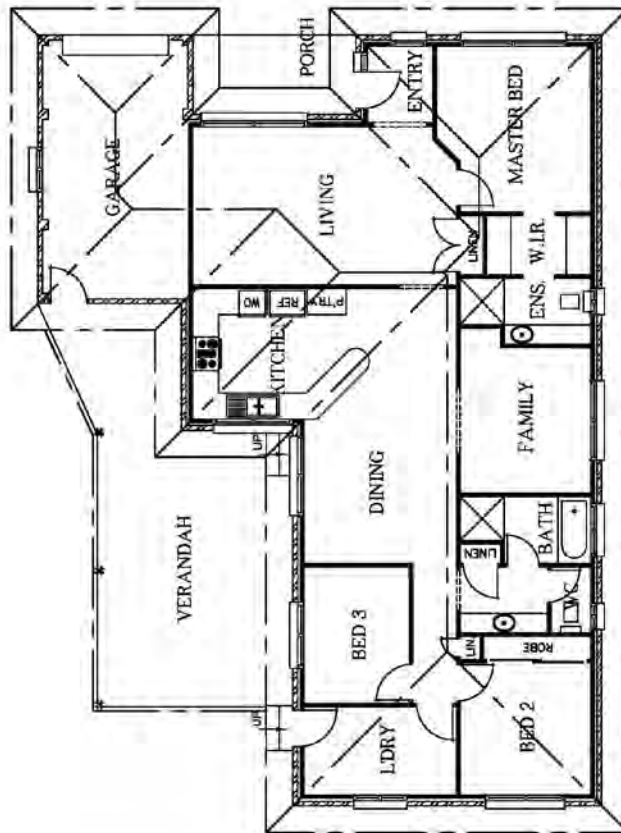
NOTE:
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PROPOSED DEVELOPMENT
 TOTAL EXISTING FLOOR AREA: 202.58m²
 EXISTING FLOOR AREA: 158.64m²
 EXISTING VERANDAH AREA: 37.27m²
 EXISTING PORCH AREA: 6.67m²

DATE: 8th August, 2012.
PLAN NO. 1417D
AMENDMENT 1
SHEET NO. SHEET 2 OF 6
SCALE: 1:500

CLIENT: PRESIDENT - MR BRIAN GOODALL
 ST VINCENT DE PAUL
ADDRESS: 9 BOYD STREET
 TWEED HEADS
 LOT 23 DP 8100
 PARISH OF TWEED
 COUNTY OF ROUS

PARAMETER DESIGNS
 SONIA MACCOURT
 11 Poplar Avenue
 CABARITA BEACH NSW 2488
 PH/FAX: 02 6676 2280
 MOBILE: 0438 647 942



EXISTING FLOOR PLAN SCALE 1:100

GFA/FSR CALCULATIONS

DESCRIPTION	AREA (m ²)	EQUIVALENT AREA (m ²)
EXISTING FLOOR AREA	124.91	124.91
PROPOSED FLOOR AREA	13.46	13.46
TOTAL SITE AREA	758.87	138.37

FLOOR SPACE RATIO % = $138.37m^2 / 758.87m^2 \times 100 = 18.23\%$
 FLOOR SPACE RATIO 0.18:1 IS THEREFORE ACCEPTABLE

NOTE:
 ALL DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALE. DO NOT SCALE DRAWING.
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PROPOSED DEVELOPMENT

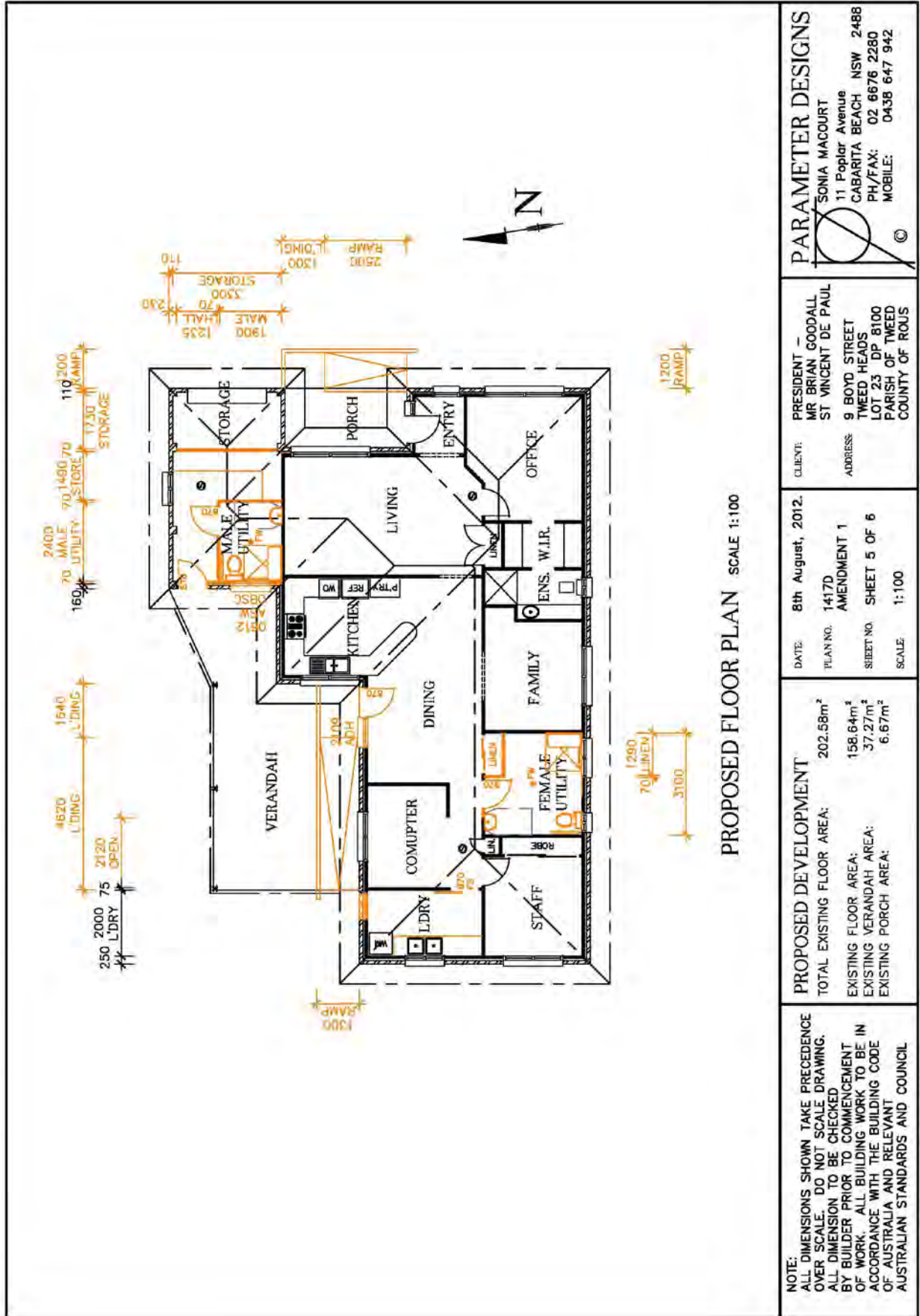
TOTAL EXISTING FLOOR AREA:	202.58m ²
EXISTING FLOOR AREA:	158.64m ²
EXISTING VERANDAH AREA:	37.27m ²
EXISTING PORCH AREA:	6.67m ²

DATE: 8th August, 2012.
 PLAN NO. 1417D
 AMENDMENT 1
 SHEET NO. SHEET 4 OF 6
 SCALE: 1:100

CLIENT: PRESIDENT - MR BRIAN GOODALL
 ST VINCENT DE PAUL
 ADDRESS: 9 BOYD STREET
 TWEED HEADS
 LOT 23 DP 8100
 PARISH OF TWEED
 COUNTY OF ROUS

PARAMETER DESIGNS

 SONIA MACCOURT
 11 Poplar Avenue
 CABARITA BEACH NSW 2488
 PH/FAX: 02 6676 2280
 MOBILE: 0438 647 942



PROPOSED FLOOR PLAN SCALE 1:100

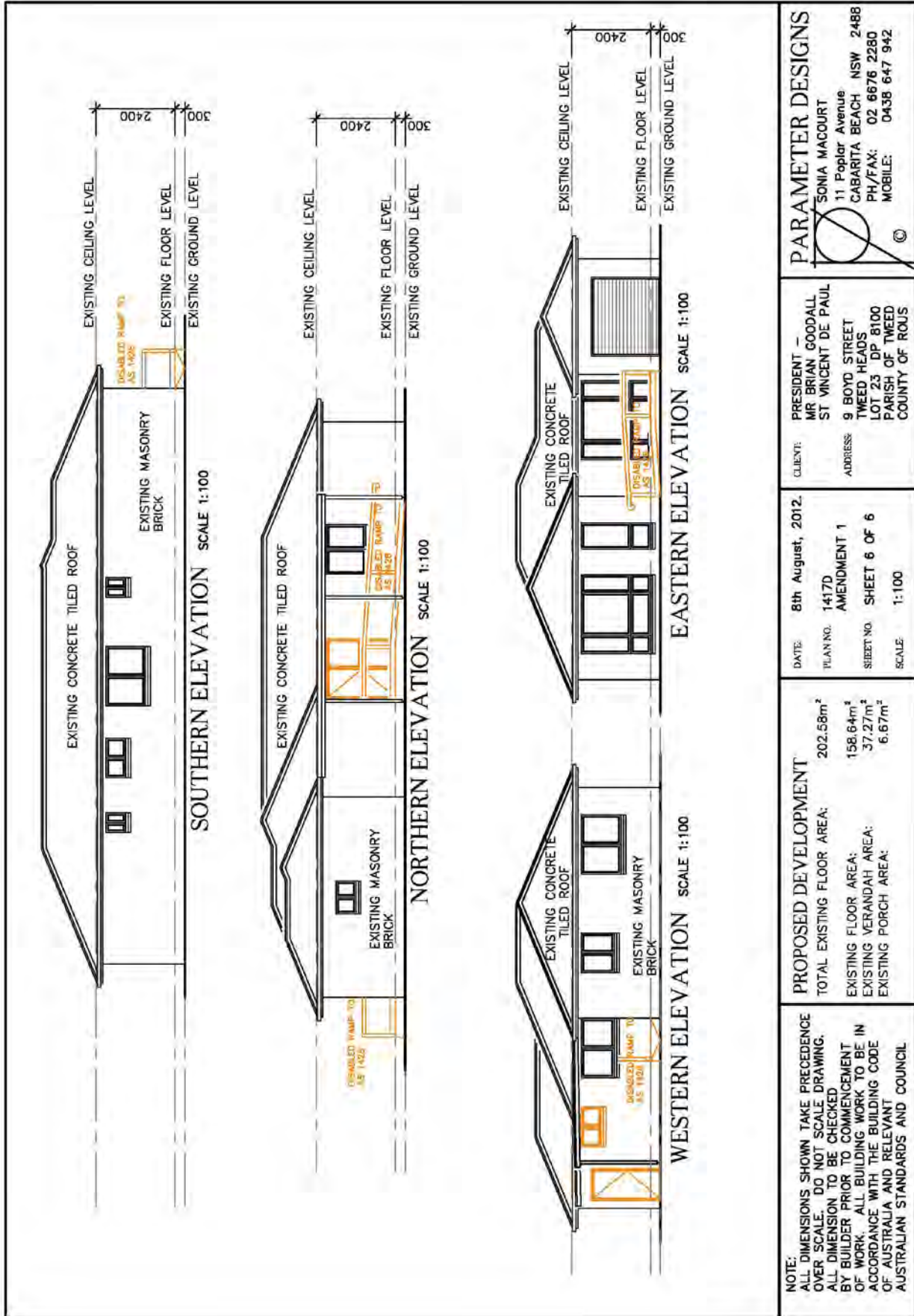
PARAMETER DESIGNS
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 CABARITA BEACH NSW 2488
 PH/FAX: 02 6676 2280
 MOBILE: 0436 647 942

CLIENT: **PRESIDENT - MR BRIAN GOODALL**
 ST VINCENT DE PAUL
 ADDRESS: **9 BOYD STREET**
 TWEED HEADS
 LOT 23 DP 8100
 PARISH OF TWEED
 COUNTY OF ROUS

DATE: **8th August, 2012.**
 PLAN NO: **1417D**
AMENDMENT 1
 SHEET NO: **SHEET 5 OF 6**
 SCALE: **1:100**

PROPOSED DEVELOPMENT	
TOTAL EXISTING FLOOR AREA:	202.58m ²
EXISTING FLOOR AREA:	156.64m ²
EXISTING VERANDAH AREA:	37.27m ²
EXISTING PORCH AREA:	6.67m ²

NOTE: ALL DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALE. DO NOT SCALE DRAWING. ALL DIMENSION TO BE CHECKED BY BUILDER PRIOR TO COMMENCEMENT OF WORK. ALL BUILDING WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS AND COUNCIL



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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The proposal is consistent with the aims of the Tweed Local Environmental Plan 2000 (TLEP 2000). The proposal represents sustainable economic development which is consistent with the area's environmental and residential amenity qualities.

Clause 5 - Ecologically Sustainable Development

The proposal is consistent with the principles of ecologically sustainable development. The carrying out of the development will not result in unacceptable cumulative impacts.

Clause 8 – Consent Considerations

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

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

In this instance, the subject site is zoned 2(b) Medium Density Residential, the primary objective of which is to provide for and encourage development for the purpose of medium density housing that achieves good urban design outcomes.

The definition of the proposal in accordance with Schedule 1 of the TLEP 2000 is *respite care centre*:

"land used for the provision of respite care for aged persons or people who are physically, mentally or socially disadvantaged."

A *respite care centre* is permissible with consent in the 2(b) zone.

The proposed change of use to daytime respite care centre with associated signage, car parking and landscaping is considered consistent with the primary objective of the zone, in that the development provides for the upgrading of the dwelling internally to suit the proposed use and results in quality development that does not reduce the possibility for a future increase in density on the site.

Other relevant clauses of the TLEP 2000 have been considered elsewhere in this report and it is considered that the proposed change of use to daytime respite care centre with associated signage, car parking and landscaping generally complies with the aims and objectives of each.

The proposal is not considered to contribute to an unacceptable cumulative impact in the community due to the discrete, low-scale proposed operations and professional management of the site within an established, medium density, residential locality.

Clause 11 - Zone objectives

The subject site is located within the 2(b) Medium Density Residential zone. The primary objective of that zone and consistency of the proposal with that objective has been outlined above.

Secondary objectives allow for non-residential development that supports the residential use of the locality and tourist accommodation that is compatible with the character of the surrounding locality. The under-utilisation of land for residential purposes is discouraged.

It is submitted that the proposal is a form of non-residential development within an established residential area that is suitable in scale, form and purpose. Services provided by the respite daytime care centre will approximate those of a residential use (eg. meals, washing, mail collection, recreation, use of bathroom facilities etc.).

The proposal does not increase the existing density of the site and the alterations to facilitate the change of use are not considered to have an adverse effect on the residential character and amenity of the area.

Clause 15 - Essential Services

The site is situated within an established residential area. All essential services are available to the site.

Clause 16 - Height of Building

The subject site has a six storey height limit. The single storey building height will not be altered as a result of this proposal.

Clause 17 - Social Impact Assessment

The scale of this development proposal does not trigger the provision of a social impact assessment as specified in Development Control Plan Section A13 – Socio-economic Impact Assessment. However, it is anticipated that the proposal will have a significant positive social impact on the identified client groups and a major social benefit for the wider Tweed in assisting to address issues of homelessness.

Clause 35 - Acid Sulfate Soils

The subject site is classified as having Class 2 Acid Sulfate Soils. In this regard, all disturbances below ground surface require assessment. The applicant has stated that the volume of materials required to be disturbed is minor. As such, all works are to comply with an Acid Sulfate Management Plan for Minor Works which is to be supplied upon condition of consent.

Specific Clauses

Clause 34 - Flooding

The subject site is not identified as being flood prone. However, the site is situated in an area that is subject to Probable Maximum Flood (PMF) levels. Provision for refuge from maximum flood levels is not a requirement for non-residential development and existing measures to contain flood waters will not be impacted by the proposal.

Clause 47 – Advertising Signs

The objective of the advertising sign provisions is to ensure that outdoor advertising:

- (a) Conveys advertisers' messages and images while complementing and conforming to both the building on which it is displayed and the character of the locality, and
- (b) Does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way, and
- (c) Does not lead to visual clutter through the proliferation of signs, and
- (d) Does not detract from the rural character or scenic qualities of the area of Tweed.

The proposed business identification signage (and symbol) meets the required objectives of this clause. The signage clearly conveys information about the facility. It is within required height restrictions and will not adversely affect the residential amenity of the locality.

Clause 54 – Tree Preservation Order

Tree Preservation Order (TPO) 2011 affects the site. The application proposes removal of two mature fig trees at the front of the site and a banana tree to the rear. Recommended condition of consent 82 requires retention of the two mature fig trees.

TPO 2011 came into effect on 22 February 2011 in order to preserve Koala habitat. The total site is covered by the part of the TPO that preserves the four specified Koala Food tree species (swamp mahogany, forest red gum, tallowwood and grey gum).

The subdivision does not propose the removal of such vegetation and as such, the proposal is consistent with Clause 54.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

This clause applies to the subject site as the NSW Coastal Policy applies. The proposal is consistent with the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The development will not result in overshadowing of the beach or waterfront open space.

SEPP No. 64 – Advertising and Signage

The business identification sign is not located within a sensitive environment and is compatible with the low-key character of the existing residential locality. It is of a high quality design and finish and provides effective communication with regard to the facility. Furthermore, it will not impact upon road safety insofar as it does not visually obstruct access to the subject site or impact upon Boyd Street road users.

SEPP No 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality. It will not restrict public access to the foreshore.

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

The Draft Tweed City Centre Local Environmental Plan 2011 was exhibited from 14 September to 14 October 2011. The draft zone for the subject site is R3: Medium Density Residential. The proposed change of use to a daytime respite care centre with associated signage, car parking and landscaping is best defined as *respite daytime care centre* which is permissible in the relevant zone under Item 3.

There is a proposed 34m height limit on development in this proposed zone. There is no minimum lot size, but a desired Floor Space Ratio of 3.25:1. The proposed development does not interfere with future development that may take advantage of the draft LEP's desired increase in density for the site.

Definition:

***Respite day care centre** means a building or a place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.*

Permissibility:

3 Permitted with consent

Attached dwellings; Boarding houses; Child care centre; Community facilities; Group homes; **Home industries; Kiosks;** Multi dwelling housing; Neighbourhood shops; Places of public worship; Respite day care centres; Roads; Seniors housing; **Any other development not specified in item 2 or 4**

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

Tweed Development Control Plan

A2-Site Access and Parking Code

DCP A2 does not provide parking rates for respite centres. The most suitable rate is that of 'office' which specifies a rate of 1 parking space per 40m² (staff parking inclusive of customer parking). The existing dwelling has an area of approximately 130m² (excluding the garage area) which generates a requirement for 3.25 (4) spaces. The proposal provides six spaces inclusive of disabled parking requirements. A condition of development consent regulates the provision of disabled access/parking in accordance with Australian Standards.

A minimum of two bicycle parking spaces are to be supplied to the site.

A3-Development of Flood Liable Land

As previously indicated in this report, the subject site is not identified as being flood prone. However, the site is situated in an area that is subject to Probable Maximum Flood (PMF) levels. Provision for refuge from maximum flood levels is not a requirement for non-residential development and existing measures to contain flood waters will not be impacted by the proposal.

A4-Advertising Signs Code

A single, non-illuminated business identification sign is proposed, setback a minimum of 600mm from the front boundary, with a total height of 2.1m inclusive of support posts and an advertising area of 900mm height by 1500mm width.

The visual impact of the sign is minimised. It is well within the provisions for a pole sign as defined by this code. It identifies the premises and gives particulars with regard to the services provided at the premises. It also includes after hours contact information.

A wooden symbol (cross) is also proposed forward of the dwelling with a height of 2.1m and width of 1500mm. The symbol is not captured by the advertising signs code but is nonetheless a structure that communicates the humanitarian intent of the facility to the public. As such, it complements the intended use of the site and is considered appropriate in context. The symbol does not interfere with access to the facility or vehicle access arrangements.

A11-Public Notification of Development Proposals

The development proposal was advertised in accordance with this section of the DCP. The proposal was placed on exhibition for 14 days from 20 June to 4 July 2012. 11 submissions were received as a result of this process (inclusive of one late submission) and are discussed in detail later in this report.

B2-Tweed Heads

The proposed daytime respite care centre located within the Western Precinct (one of three High Density Residential Precincts) the objectives of which are:

- To develop the precincts primarily as high density residential areas which respect existing residential amenity;
- Provide additional choice in housing accommodation to cater for an increasing variety of household types;
- Facilitate an increased residential population in proximity to the sub regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land; and
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The western precinct is the largest of the three precincts and allows for a range of building heights from 50m AHD in the north, 12 storeys in the centre, down to six storeys in the south. The precinct contains many older style buildings and Boyd Street in particular contains a number of specialist medical services.

An assessment of the proposal against the provisions of DCP B2 reveals that it is in compliance with the relevant development controls in relation to building envelope, resultant shadow, view corridors, design guidelines and open space and that it promotes the efficient use of residential land.

The proposed change of use to daytime respite care centre is not inconsistent with the objectives of this DCP or the overall vision for Tweed Heads.

Tweed Heads Master Plan

The Master Plan establishes a vision for the Town Centre of Tweed Heads. The subject site is located just beyond the boundary of the Town Centre study area and as such, this plan does not apply to the subject proposal.

Tweed City Centre Draft Development Control Plan 2011

The subject site is located within the land to which this draft DCP applies in Tweed Heads within the Boat Harbour Precinct. Provisions within this plan supplement those within the draft Tweed City Centre LEP, addressed elsewhere in this report.

This plan repeals Section B2 of the Tweed Shire DCP (as addressed above) and does not apply to any development lodged but not finally determined before the commencement of the plan.

The desired character of the Boat Harbour Precinct is for a built form that promotes a maritime theme and provides pedestrian access along the waterfront and to water based activities. Desired character does not specifically address development on sites further removed from the waterfront area but encourages mixed business uses.

The draft DCP caters well for mixed use developments and new commercial developments. Infill commercial developments such as the subject proposal, utilising existing residential structures are unlikely to reach the expectations of draft controls.

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

Clause 92(a) Government Coastal Policy

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

Clause 92(b) Applications for demolition

The proposal includes some demolition in order to facilitate alterations to the dwelling to facilitate the change of use. A condition of development consent requires demolition work to conform to the provisions of Australian Standards for such work.

Clause 93 Fire Safety Considerations

Council's assessment of the proposal has taken into account fire safety issues with recommended conditions of consent catering for any required provisions in this respect to enable the change of use.

Clause 94 Buildings to be upgraded

Clause 94 is considered satisfied as the proposed alterations to facilitate the change of use generally comply with the Building Code of Australia.

(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 land. The Tweed Shire Coastline Management Plan 2005 is not applicable to the proposed development.

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 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

Security Services

The application was forwarded to Council's Community and Natural Resources Unit for comment as part of the assessment process. Comments returned discussed a number of matters not relating to planning but did highlight the need for the operators of the facility to engage security services to patrol the premises and the adjacent street outside of operating hours.

The application was referred to Tweed Police as part of the assessment process to enable awareness of the facility and alert them to any future security measures that may need to be undertaken by the applicant should the need arise.

In addition, the applicant has supplied a comprehensive management plan (refer Attachment 1) that addresses matters with regard to security. This management plan enables authorities to be engaged to deal with violent, antisocial and medically unstable behaviour beyond the property boundary so that surrounding properties and the general public are not impacted upon.

Context and Setting

The scale, nature and design of the proposed development will not adversely impact upon the surrounding residential and non-residential uses within the locality.

The proposed development represents utilisation of a residential site that has reached its economic potential and awaits increase in density in the foreseeable future. It is a reasonable progression of expectations for a non-residential development within the local medium density residential area.

Traffic

The proposed use is not likely to impact upon the existing road network given the small scale of development.

Stormwater Quality Management

Water sensitive urban design is to be considered as part of the integrated design. Where possible, the use of grassed swale drainage is to be used in preference over pipe or hard lined channels and infiltration methods such as bio-retention are to be used over proprietary devices.

The proposal intends to use landscaping throughout the property to treat any pollutants discharged off the existing/proposed hardstand areas. Ultimately stormwater discharges into the existing kerb of Boyd Street.

Flora and Fauna

Removal of the two mature fig trees at the front of the property is not supported as the vegetation, despite the need for regular trimming, contributes substantially to the existing residential amenity of the Boyd Street streetscape.

It is understood that adjoining residents raised issues with regard to impact upon driveway visibility. However, following assessment of site distances to driveways on the subject site and adjoining properties, the vegetation was not seen to contribute to any obstruction of visibility over the road reserve area to Boyd Street.

The two mature fig trees soften the appearance of the proposed hardstand car parking areas at the front of the site, integrate the site with adjoining residential uses and provide a suitable backdrop to the proposed business identification signage.

A landscaping plan has been supplied that includes 90% local native species. However, the plan does not include retention of the figs nor does it conform to the current amended site plan.

A condition of development consent will require the applicant to provide a consistent landscaping plan denoting retention of the figs and incorporating them into local native landscaping of the site.

Waste

A Waste Management Plan has been provided that satisfactorily addresses all aspects of waste arrangements: demolition, construction and operation.

(c) Suitability of the site for the development

The suitability of the site for the development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control Plan. The proposal, as amended, is generally consistent with the residential character of the locality.

Surrounding Land Uses/Development

The site is in close proximity to the southern end of the Tweed Heads town centre. Immediately adjoining the property to the south is the driveway of a two storey residential flat building and to the north, a two storey commercial premises (butcher).

The butcher shop is built to the southern boundary line with its wall extending as deep as the setback of the dwelling on the subject site. The rear yard of the butcher shop is an open grassed area that has been used in association with the dwelling, the subject of this proposal.

Immediately behind the site are two properties: a two storey residential flat building at 8 Recreation Street and a single storey historic residence converted for use as a surgery. The surgery has a generous rear setback from the adjoining boundary with the subject site and the rear wall of the residential flat building has no openings (windows or doors) overlooking the rear yard of the subject site.

Opposite the site in Boyd Street is a two storey place of worship (Masonic Centre) located between an older two story residential flat building to the north and an original single, well landscaped dwelling to the south.

Access

Existing bus routes are located nearby in Florence Street and Wharf Street. For staff and clients accessing the facility by vehicle, the existing concrete driveway is proposed to be widened to facilitate turning movements and provide an even splay each side.

A footpath is located adjacent to the site (both sides) but not on the frontage of the site. A footpath is required to be extended on the frontage of the site in order to continue existing pedestrian access from 7 Boyd Street to 11 Boyd Street.

Food Construction

The proposal includes the provision of light meals and refreshments with the kitchen area meeting 'food code' requirements. A condition of development consent requires details of compliance with such requirements prior to the issue of a construction certificate.

Contamination

A review of records indicates that the subject land was not impacted by the former Coolangatta Railway lands. A review of historical aerial photography indicates that the general location was utilised for residential purposes from as early as 1966. Council records for the property do not indicate the site to be potentially contaminated.

Hours of Operation

The applicant proposed general hours of operation that did not differentiate operational requirements from client access requirements.

As such, the following hours of operation are recommended for approval both to differentiate staff occupation and client occupation and to regulate use with regard for adjacent residential uses:

- 9am to 5pm Mondays to Fridays (staff);
- 10am to 4pm Mondays to Fridays (clients);
- 9:30am to 2:30pm Saturdays, Sundays and Public Holidays (staff); and
- 10am to 2pm Saturdays, Sundays and Public Holidays (clients).

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

Public:

The proposal was advertised in accordance with DCP A11 – Public Notification of Development Proposals for a period of 14 days from Wednesday 20 June to Wednesday 4 July 2012. During this time, a total of 11 submissions were received, inclusive of one late submission.

The applicant has addressed the submissions as follows:

Issue	Applicant Response
It is expected that there would now be more than 282 homeless in the area since the 2006 census	We would note that as a result of recent programs and initiatives, homeless numbers are anticipated to have been relatively stable since 2006, although 2011 census data is not available at the detailed level. As outlined, a facility does exist in the border area which would cater to homeless people from the Queensland side.
Homeless in nearby areas to the north could be expected to use the proposed centre	It is not anticipated that usage would be made of the proposed centre by Queensland residents.
Up to 80 attend the Salvation Army centre in Byron Bay	In terms of numbers of attendees, the Byron Bay centre (not operated by St Vincent de Paul) also attracts itinerant workers, alternative lifestylers and the like as well as the genuinely homeless. We submit the overall numbers for the Tweed facility would therefore be significantly lower. We would further note, that notwithstanding the number of attendees at the Byron Bay centre, there are negligible issues associated with the operation.
Locality affected by people sleeping in cars, parks and private gardens and loitering outside the centre in the morning	This has been addressed elsewhere in the submission. In particular, the draft management plan proposed specifically addresses the loitering issue. There is no evidence based on other facilities of people loitering on the premises outside operating hours.
Trespassers onto private property to hide alcohol	As noted elsewhere within this submission, St Vincent de Paul has not experienced significant out of hours issues with its other developments. As noted, the management plan provides for the circulation of a 24 hour phone number to adjoining residents who can call if they have any concerns which would be immediately addressed. A phone contact number would also be provided on the proposed site sign.
Where will people under the influence of drugs and/or alcohol go if they are asked to leave?	
Unsociable behaviour	
Property values will be affected	The issue of property values and land use change was discussed previously with a former chair of the NSW Valuer's Association. He indicated that it was rare for uses to genuinely affect property values, unless there were substantial and ongoing amenity issues (eg. industrial development adjacent to residential development). Instead, his advice was that the effect of land use change may reduce the pool of buyers prepared to pay a given price for the property but not reduce the price overall. Individual approaches to adjoining non-residential land uses varies considerably, with many having no issues with this.
Hours of operation are unacceptable for a residential area	Unlike many other facilities, this facility does not have a residential component and therefore has restricted opening hours. We submit that the requested opening hours are compatible with the residential environment particularly given the low level of amenity impact likely to be caused by the proposed development.

Issue	Applicant Response
Impact upon residential amenity	<p>We submit that the fears and concerns expressed by a number of nearby residents are in fact greater than warranted by the nature of the proposal. The proposal is not a commercial development. In this regard, it takes no money from clients but instead provides a voluntary service to assist homeless people. As outlined in the SEE, benefit is seen in providing these services within a low-key 'homelike' environment.</p> <p>We note that the proposal includes a car park. However, it also includes substantial landscaping which would reduce the visual impact of this car park. The relocation of the proposed outdoor area to the rear / side of the property would also assist to retain a residential ambience. In the overall context of Boyd Street which contains a mix of commercial and residential development, it is submitted that the proposal is not out of character.</p>
Security and out of hours issues – property and elderly residents	<p>This issue was addressed in our application. We note the implementation of a management plan, and the lack of substantive problems at the other 37 facilities operated by St Vincent de Paul in NSW. We do not accept that homeless people pose any greater security risk to residents than other people within the community.</p> <p>A report prepared by Dr Catherine Robinson of UTS <i>Rough living: surviving violence and homelessness</i> found that despite common perceptions of homeless people as drug addicts and criminals, people experiencing homelessness are far more likely to be victims of crime (including violence) rather than perpetrators.</p> <p>The proposed Boyd Street facility seeks to provide a range of services to help clients break the "cycle of homelessness". In this regard, it operates not as a "drop in centre" per se, but rather as a facility that provides a comprehensive approach to the range of issues faced by homeless people so as to assist them into the conventional housing market. This is consistent with the NSW policy reforms "Going home, Staying home". Dr Robinson is on the panel of experts associated with this policy.</p>
Problems with other centres	<p>We note concerns have been expressed regarding Angela House which was a residential facility, and another development that was a soup kitchen. We submit that the proposed development is different in character from both these other developments and being run on a fully professional basis, would not experience similar issues. In particular, the intent of the facility is not primarily the service of meals, nor is sleeping accommodation provided.</p>
Traffic increase with commercial deliveries	<p>There would be a possible minor increase in traffic associated with the proposal. In practice, very few homeless people have cars and the number of traffic movements associated with staff / volunteers would not be inconsistent with a typical large dwelling.</p> <p>Overall, traffic generation would be less than multiple unit developments in the vicinity. It is acknowledged that pedestrian traffic would increase. However, the number of movements per hour would be small, based on the anticipated number of clients. The premises would not have commercial deliveries as the light meals being served would be quite consistent with the food quantities of a normal household.</p>

Issue	Applicant Response
Waste Disposal	Waste disposal during operation would be consistent with waste generation of a normal dwelling. Waste disposal would occur through the normal garbage service.
Proposal conflicts with primary objective of residential zoning	This issue was addressed in the SEE. We note that the traffic, pedestrian, noise and waste generation issues associated with high-density residential development would be substantially in excess of the proposed development. As previously indicated, the site would be potentially available for high-density residential development in the future.
Outdoor recreation area will increase noise and result in smoking impact	It is noted that the proposed outdoor area has been relocated to adjoin the commercial premises at 7 Boyd Street. In this regard, it is not expected that the facility would generate significant noise nor is likely to affect the amenity of nearby residents in particular those at 11 Boyd Street. As previously outlined, car movements would be quite consistent with what might be expected from a multi-unit residential development, noting that no night-time movements would occur.
Centres in Byron Bay and Wagga Wagga are in Commercial areas – properties are available in the vicinity in Commercial zones	We note a number of submissions have made reference to the proposal being within a residential zoning with this being considered inappropriate. We would note that the residential zone is not exclusively for residential development but permits a wide range of uses. In this respect, the proposed use is permissible within the zone and would be a permissible use in the draft LEP.
Alteration of adjoining fencing to the southern property	Additional screening had been proposed to address issues raised by adjoining residents at 11 Boyd Street. With the proposed relocation of the outdoor area, no change to the side fencing with No. 11 would occur.

An extract from the late submission in support of proposal states:

"We very much agree to the use of the place as a respite. There should be more housing for our homeless people. The house will not affect our building. These people who object should think of the poor people sleeping out in the cold when they get into their warm beds."

Council's assessment of amended plans provided by the applicant supports the applicant's comments with regard to the submissions. Any remaining issues have been assessed in the body of this report. The applicant will be required to provide a landscaping plan that is consistent with the approved amended site plan as a condition of consent.

As such, it is considered that issues raised within the 10 submissions objecting to the proposal have generally been resolved satisfactorily. Imposed conditions of development consent will allow Council to regulate operation of the facility should complaints be made in this regard.

Public Authority:

The application was not identified as integrated development but was referred to Tweed Police for comment as the application has a connection with efficient policing of the area.

Comment from Tweed Police indicated that there were no issues raised in regard to the proposal.

(e) Public interest

The proposed development, generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan, is considered to be in accordance with public interest, with no significant impacts anticipated for surrounding residential uses and the local community in general.

OPTIONS:

1. Approve the development application in accordance with the officer's recommendation;
or
2. Refuse the development application with reasons.

CONCLUSION:

The proposed change of use to daytime respite care centre with associated signage, car parking and landscaping is generally consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and policies. The proposal will not result in adverse cumulative impacts. It is considered that the site is suitable for the development.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Boyd Street Day Respite Centre Draft Management Plan Revision A 13 August 2012 (ECM 57597817)

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- 15 [PR-CM] Development Application DA11/0456 for Additions to Existing Manufactured Home Estate Including 32 New Manufactured Home Sites, Recreation Area, Visitor Parking and Extension of Internal Road and Revegetation Work at Lot 193 DP 1014329 No. 34 Mona

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0456 Pt4



Civic Leadership

SUMMARY OF REPORT:

Council at its meeting of 21 August 2012 resolved as follows:

"RESOLVED that:

1. *This item be deferred until the next formal Council meeting.*
2. *The General Manager arranges a site inspection for all Councillors prior to the formal meeting at point 1.*
3. *A workshop follows the site inspection."*

In accordance with this resolution, a site inspection for Councillors was held on 16 October, 2012 and a Councillors Workshop was held on 18 October 2012.

A full copy of the original report to Council's meeting of 21 August 2012 is reproduced below.

Original Council report to Council's meeting of 21 August 2012

Council is in receipt of a development application for an extension to an existing manufactured home estate on Lot 193 DP1014329 No. 34 Monarch Drive, Kingscliff.

The extension is for 32 new manufactured home sites located on the northern side of the existing lake. The proposal includes construction of an internal road, recreation area, additional car parking, an acoustic fence located adjacent to Tweed Coast Road and revegetation/compensatory habitat.

The main issues raised during the assessment of the application include the following:

- Flooding impacts;
- Ecological issues;
- Noise impact from Tweed Coast Road on proposed manufactured homes;
- Amenity;
- Retaining walls; and
- Fill.

This application has been submitted for Council consideration in light of the substantial community response (130 submissions) to the public exhibition of this development application. The Division of Local Government has provided written confirmation that the subject proposal does not fall within the category of "controversial development application" under Local Government (General) Amendment (Caretaker Period Restrictions) Regulation 2012, and therefore the Council is in a valid position to determine this matter at this meeting.

The Council officers have conducted a thorough assessment of the relevant legislation and planning merits of this proposal and consider that the application is suitable for approval, subject to conditions of consent.

RECOMMENDATION:

That Development Application DA11/0456 for additions to existing manufactured home estate including 32 new manufactured home sites, recreation area, visitor parking and extension of internal road and revegetation work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff be approved subject to the following conditions:

GENERAL

- The development shall be completed in accordance with the Statement of Environmental Effects dated September 2011 prepared by Jim Glazebrook & Associates Pty Ltd (and additional correspondence), and plans listed in the table below, except where varied by the conditions of this consent.**

Title	Date	Author	Drawing / Issue Number
Master Plan	23/07/2012	Zoran Architecture	MCU - 101 F2
Perimeter Reference Plan	23/07/2012	Zoran Architecture	MCU - 101 F2
Part Site plan 1	23/07/2012	Zoran Architecture	MCU-201 F1
Part Site plan 4	23/07/2012	Zoran Architecture	MCU - 204 F1
Part DCP - 1	23/07/2012	Zoran Architecture	MCU - 301 F1
Part DCP - 4	23/07/2012	Zoran Architecture	MCU-304 F1
External Work 1	23/07/2012	Zoran Architecture	MCU-401 F1
External Work 4	23/07/2012	Zoran Architecture	MCU-404 F1
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN01 F2
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN02 F2
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN03 F2
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK01H
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK04A
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK02C
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK03A

[GEN0005]

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

[GEN0045]

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

[GEN0115]

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

[GEN0135]

5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

6. Development of the proposed dwelling sites shall be carried out in accordance with the noise attenuation measures recommended in the report of Craig Hill Acoustics (ref: *Noise Level Impact Assessment - revision 3*, Craig Hill Acoustics 24 February 2012) and design drawings Zoran Architecture drawings MCU-101 F2; MCU-102 F2; MCU-201 F2; MCU-204 F2; MCU-301 F2; MCU-304 F2; MCU-401 F2; MCU-404 F2; FEN01 F2; FEN02 F2; and FEN03 F2 dated 23-07-2012.

Future construction and installation of the proposed manufactured homes shall also be carried out in accordance with the noise attenuation measures recommended in the report of Craig Hill Acoustics (ref: *Noise Level Impact Assessment - revision 3*, Craig Hill Acoustics 24 February 2012) except: a) "the Rw values given in Table 4.6 are the minimum values that are to be used; b) "windows rated at 30Rw or higher to be installed in all bedroom windows facing the track, on the adjoining property to the north, known as Lot 1 DP 227034.

[GENNS01]

7. Satisfactory compensation, generally as illustrated by Landscape Plan LSK04A by Zoran Architecture version A1.8.12 (minor amendment), must be provided for loss of habitat of high ecological value, evidenced by a Habitat Restoration Plan prepared in accordance with Council's draft *Guideline for the preparation and implementation of Habitat Restoration Plans*. The Habitat Restoration Plan must include, but not be limited to:

- a schedule and timing of on-ground works to be undertaken
- a signed contract or other evidence of commitment by the consent holder to fund the proposed habitat restoration works for a minimum period of five years and that the works will be completed by qualified and experienced ecological restoration. personnel.
- evidence as to how the agreed offset sites will be protected from future development.

[GENNS01]

8. A maximum of two bedrooms are permitted in each manufactured home.

[GENNS02]

9. Prior to the operation of the expanded manufactured home site, prior approval must be given by Council under section 68 of the Local Government Act.

[GENNS03]

10. Prior to the installation of any building or structure, prior approval must be given by Council under section 68 of the Local Government Act.

[GENNS03]

11. A manufactured home and associated structure must not be installed on a single dwelling site if the floor plan area of the manufactured home (together with that of any associated structure or other building or structure on the site) is more than two-thirds of the area of the site.

[GENNS04]

12. The manufactured home estate shall be designed, constructed and maintained in accordance with the requirements of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

[GENNS05]

13. The proposed dwellings are to comply with the definition of a manufactured home. A manufactured home is a self-contained dwelling (that is, a dwelling that includes at least one (1) kitchen, bathroom, bedroom and living area that also includes toilet and laundry facilities), being a dwelling:

- a. that comprises one or more sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate; and
- b. that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate.

[PCC0055]

15. 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:

124.8 Trips @ \$1146 per Trips \$143021

(\$1137 base rate + \$9 indexation)

S94 Plan No. 4

Sector6_4

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

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

where:

\\$Con_{TRCP - Heavy} heavy haulage contribution

and:

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

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

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

(b) West Kingscliff - Drainage:

1.725 HA @ \$56641 per HA \$97705.73

(\$5664.1 base rate + \$50976.9 indexation)

DCP Section B4

S94 Plan No. 7

(c) West Kingscliff - Open Space:

22.6656 ET @ \$2906 per ET \$65866

(\$1849 base rate + \$1057 indexation)

DCP Section B4

S94 Plan No. 7

(d) Shirewide Library Facilities:

22.6656 ET @ \$816 per ET \$18495

(\$792 base rate + \$24 indexation)

S94 Plan No. 11

- (e) **Bus Shelters:**
22.6656 ET @ \$62 per ET \$1405
(\$60 base rate + \$2 indexation)
S94 Plan No. 12
- (f) **Eviron Cemetery:**
22.6656 ET @ \$121 per ET \$2743
(\$101 base rate + \$20 indexation)
S94 Plan No. 13
- (g) **Community Facilities (Tweed Coast - North)**
22.6656 ET @ \$1352 per ET \$30644
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (h) **Extensions to Council Administration Offices
& Technical Support Facilities**
22.6656 ET @ \$1812.62 per ET \$41084.12
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18
- (i) **Cycleways:**
22.6656 ET @ \$460 per ET \$10426
(\$447 base rate + \$13 indexation)
S94 Plan No. 22
- (j) **Regional Open Space (Casual)**
22.6656 ET @ \$1064 per ET \$24116
(\$1031 base rate + \$33 indexation)
S94 Plan No. 26
- (k) **Regional Open Space (Structured):**
22.6656 ET @ \$3730 per ET \$84543
(\$3619 base rate + \$111 indexation)
S94 Plan No. 26

[PCC0215/PSC0175]

16. 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.

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

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

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP5: 19.2 ET @ \$12150 per ET \$233,280

Sewer Kingscliff: 24 ET @ \$5838 per ET \$140,112

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

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

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

[PCC0265/PSC0165]

- 18. 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 (public infrastructure - insert / delete as applicable) 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]

- 19. 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]

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

Detail of the proposed haul route is also to be submitted to Council for approval. Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No. 4 will be required prior to the issue of a Construction Certificate.

[PCC0465]

- 21. 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]

- 22. Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works where it can be demonstrated all works are compatible.**

[PCC0495]

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

[PCC0675]

24. Design detail shall be provided to address the flood compatibility of the development, including the following specific matters:
- a) Design flood level of RL 3.2m AHD
 - b) Minimum habitable floor level for the dwellings of RL 3.7m AHD
 - c) All dwelling sites shall be filled to a minimum of the design flood level
 - d) Culverts shall be provided under the filled access road in general accordance with the approved plans, in order to convey flood waters for a range of flood intensities through the site without creating significant adverse impact on the locality.
 - e) Acoustic treatment of the flood culverts under the filled access road must be designed to ensure that the inlet capacity of the culverts is maximised, so as to not create significant adverse impact on local flood behaviour. Clear, unobstructed flow widths to adjacent structures or fill batters must be provided and maintained around acoustic treatments such as lapped fences, to provide net equivalency to the culvert width at the inlet. The acoustic treatment must be certified as meeting acceptable acoustic and flood impact criteria by suitably qualified and experienced acoustic and hydraulic consultants.
 - f) All dwelling sites created by the development must be serviced by a high level evacuation route, as defined by Council's Development Control Plan Section A3 - Development of Flood Liable Land. The construction certificate application must provide a plan of the identified route, including surveyed levels by a registered surveyor at appropriate intervals and critical locations along the route demonstrating compliance. If compliance cannot be demonstrated, the applicant shall undertake upgrades of Council roads and/or stormwater drainage so as to achieve a compliant high level evacuation route. These works may require separate approval(s), which must be obtained from Council prior to issue of a Construction Certificate for the development.

[PCC0705]

25. 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]

26. 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]

27. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
 - (d) Specific Requirements to be detailed within the Construction Certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

28. A construction certificate application for works that involve any of the following:
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.
- [PCC1145]
29. 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]
30. 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]
31. Submit to Council, for approval, a preliminary soil testing (acid sulfate soil) report, and acid sulfate soil management plan where the results of the preliminary soil testing indicates the presence of acid sulfate soils. All works shall comply with the approved plan.
- [PCCNS01]
32. Prior to the issue of a Construction Certificate the applicant shall submit design detail for the retaining structures to be erected on the site in accordance with AS 4678. A registered qualified structural engineer and a registered qualified geotechnical engineer shall provide the following details prior to approval;
- (a) Design detail for the retaining structures is to be supported by certification of adequacy of design from a qualified structural engineer.
- (b) A registered geotechnical engineer shall also provide a certification of adequacy to support the design of the proposed manufactured block concrete retaining walls, cantilevered footings and soil anchors based on the subsurface conditions of the lake, exported fill material, AS3798, AS4678 and any other geotechnical requirements.
- [PCCNS02]
33. Prior to issue of a Construction Certificate, a certification of adequacy is to be provided by a suitably qualified person to state the proposed retaining structure is capable of being submerged long term within the existing lake to support the proposed road, fill material and manufactured homes. Supporting evidence (including test results) from the manufacturer is to be provided with the certification.
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[PCCNS03]

34. A Traffic management plan is to be provided prior to the issue of a Construction Certificate to address the following;
- Number of trucks proposed to enter and leave the site for both the filling and building works.
 - Source of fill material
 - Haul route for proposed fill material to the development site
 - Construction time frame for both filling and building works
 - Traffic control plan prepared by an RTA accredited person in accordance with AS1742 and RTA publication "Traffic at Work Sites" latest version.

[PCCNS04]

35. A detailed plan of landscaping containing no noxious or environmental weed species and with species selection guided by Council's native species planting guide at the following link: <http://www.tweed.nsw.gov.au/NativePlantGuide> is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCCNS05]

36. Prior to issue of the construction certificate, the applicant is to submit a Habitat Restoration Plan in accordance with Council's draft *Guideline for the preparation and implementation of Habitat Restoration Plans* detailing environmental enhancement works across the site. The Habitat Restoration Plan must be approved to the satisfaction of Council's General Manager or his delegate prior to commencement of works.

[PCCNS05]

37. Prior to issue of the Construction Certificate, a Construction Environmental Management Plan must be prepared and approved by the General Manager or his delegate to detail mitigation measures for wader birds and other aquatic or terrestrial flora and fauna species known or predicted to occur on or adjacent to the site. The plan must include, but not be limited to, the following matters:
- a. Environmental safeguards (silt curtains, booms etc.) are to be utilised during retaining wall construction to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.
 - b. Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.
 - c. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

38. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-
- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or

(b) **AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.**

(c) **WorkCover Regulations 2000**

[PCW0025]

39. **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]

40. **A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:**

(a) **a standard flushing toilet connected to a public sewer, or**

(b) **if that is not practicable, an accredited sewage management facility approved by the council**

[PCW0245]

41. **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]

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

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

[PCW0375]

43. **Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and roads are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.**

The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining/adjacent owners confirming agreement that no damages have occurred/repairs carried out are acceptable.

[PCW0775]

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

[PCW0835]

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

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

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

[PCW0985]

46. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

47. Prior to commencement of works plans to be submitted and approved by Council, showing that passing bays will be provided along the access road in accordance with clause 21 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 - width of roads.

[PCWNS01]

48. Commencement of works in accordance with the Schedule of Works within the approved Habitat Restoration Plan must be demonstrated prior to clearing of the Swamp Oak Floodplain Forest, Banksia Woodland or freshwater wetland vegetation within the development site.

[PCWNS02]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Friday from 7.00am to 5.00pm

No work to be carried out on Saturday, Sundays or Public Holidays

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

[DUR0205]

51. 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]

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

[DUR0225]

53. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

54. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

55. 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]

56. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

57. 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]

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

[DUR0415]

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

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

[DUR0765]

60. 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]

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

[DUR0815]

62. 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]

63. 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]

64. 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]

65. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.
- [DUR1015]
66. 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]
67. A concrete footpath with a minimum width of 1m is to be provided along the full length of the proposed road and along the northern boundary as per plan titled Master Plan, sheet MCU-101 Issue F2, prepared by Zoran Architecture dated 23/07/2012.
- [DUR1735]
68. 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]
69. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
70. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate.
- [DUR1955]
71. 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]
72. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.
- [DUR2185]
73. 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]

74. 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]

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

[DUR2435]

76. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

77. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

78. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

79. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

80. Vegetation clearing at all locations shall be limited to the minimum necessary for the developments to proceed, and all works sites, stockpile areas, storage facilities and vehicle parking and maintenance areas shall be located on already disturbed land, avoiding any necessity for the clearing of native vegetation for these activities. The applicant is to demonstrate that the trees being retained on the site and on any adjacent land have been protected in accordance with Australian Standard *AS 4970-2009 Protection of trees on development sites*.

[DURNS01]

81. All erosion and sedimentation controls shall be maintained in accordance with the report of Baclon Pty Ltd (ref: Engineering Impact Assessment Proposed Lakeside Villa Development dated 5 September 2011) or to a different standard as required by the General Manager or his delegate, throughout the period of construction and any environment restoration works.

[DURNS01]

82. Each dwelling site must be numbered or identified and its site boundaries clearly delineated, and the site identification must be conspicuous.

[DURNS02]

83. Internal access road(s) to be speed limited to 15kmh and signed accordingly.

[DURNS03]

84. The provision of one additional car parking space for the disabled is required. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DURNS04]

85. The following geotechnical requirements are to be addressed during construction;

(a) Level 1 geotechnical testing

ALL 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.

(b) Grid settlement plates

A series of geotechnical grid settlement plates are to be installed across the site and monitored during filling and for a period after the filling has been completed to measure any settlement which will occur as a result of the proposed development, as recommended in the geotechnical report prepared by Shaw Urquhart titled Geotechnical assessment in response to Tweed Shire Council letter dated 6 December 2011" prepared by Shaw Urquhart dated 27 March 2012.

The period of time for geotechnical monitoring after filling is complete is to be nominated by the geotechnical engineer.

A certificate from a registered Geotechnical Engineer certifying that settlement has terminated and the development will not be comprised by any further settlement is to be provided to the Principle Certifying Authority after completion.

(c) Filling works

All filling works shall be in accordance with the geotechnical report titled "Geotechnical assessment in response to Tweed Shire Council letter dated 6 December 2011" prepared by Shaw Urquhart dated 27 March 2012."

[DURNS05]

86. The retaining structures are to be designed, inspected and certified by a qualified structural engineer experienced in structures.

[DURNS05]

87. All access roads must be adequately lit between sunset and sunrise.

[DURNS05]

88. Any such electrical circuit must be installed in accordance with the requirements of AS/NZS 3000:2000, *Electrical Installations* (known as the Australian/New Zealand Wiring Rules).

[DURNS05]

89. A common trench may be used for the installation of services in accordance with guidelines provided in AMCORD;

[DURNS05]

90. Fire hydrants shall be designed, installed and commissioned in accordance with AS2419.1 - 2005 Fire Hydrant Installations"

[DURNS05]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

91. 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]

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

The bond shall be based on 5% of the value of the civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

93. 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]

94. 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]

95. 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]

96. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

97. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

98. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

99. Prior to the occupation or use of any building a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

100. An Occupation Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[POCNS01]

101. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Occupation Certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

102. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a final Dilapidation Report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads.

The dilapidation report shall take into consideration the findings of the original report and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.

[POC0825]

103. Easements to drain water benefitting Council shall be created over the flood culverts and the connecting flow paths between Tweed Coast Road and Noble Lake.

[POCNS01]

104. The existing easement for a sewer rising main 3m wide (created under DP 836315) located in the north west corner which is no longer in use is to be extinguished. Documentary evidence for the extinguishment of the easement is required prior to issue of the Occupation Certificate.

[POCNS02]

105. A qualified engineer shall provide engineering certification for the retaining structures prior to the issue of an Occupation Certificate.

[POCNS03]

106. Certification by a qualified engineer that the civil and road works have been constructed under their supervision in accordance with the approved engineering plans and specifications prior to the issue of an Occupation Certificate.

[POCNS04]

107. Geotechnical engineering certification is to be provided for the proposed development to certify that settlement has terminated and the development will not be comprised by any further settlement. The settlement plate information is to be provided with the geotechnical certification to validate settlement has stopped prior to the issue of an Occupation Certificate.

[POCNS05]

108. Primary weeding and/or planting and establishment must be completed in accordance with the Schedule of Works within the approved Habitat Restoration Plan prior to issue of any Occupation Certificate for the site.

[POCNS05]

USE

109. 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]

110. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.

[USE0155]

111. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{Aeq}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

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

[USE0225]

113. Timber decks over the existing lake shall be constructed of hardwood and shall not be treated with oils, paints, detergents or other chemicals.

[USENS01]

114. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Occupation Certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the Occupation Certificate.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

115. 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.

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

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

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

[PSC0835]

GENERAL TERMS OF APPROVAL FOR WORK REQUIRING A CONTROLLED ACTIVITY APPROVAL UNDER THE WATER MANAGEMENT ACT 2000

Number	Condition
Plans, standards and guidelines	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA11/0456 and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the lake identified.
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Works Schedule (iii) Erosion and Sediment Control Plan (iv) Soil and Water Management Plan
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx (i) Vegetation Management Plans (ii) Outlet structures
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

Rehabilitation and maintenance	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	N/A
Reporting requirements	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
Security deposits	
9	N/A
Access-ways	
10	N/A
11	N/A
Bridge, causeway, culverts, and crossing	
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the lake or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
13	N/A
Disposal	
14	N/A
Drainage and Stormwater	
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
Erosion control	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

Excavation	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
Maintaining river	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
21	N/A
River bed and bank protection	
22	N/A
23	N/A
Plans, standards and guidelines	
24	N/A
25	N/A
26	N/A
27	N/A
END OF CONDITIONS	

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

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

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

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

2. An emergency and evacuation plan is to be prepared for the whole estate that complies with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- 3. Dwellings 1, 2 and 27 to 30 shall comply with section 5 (BAL 12.5) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection.**
- 4. Dwelling 31 shall comply with section 6 (BAL 19) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection.**
- 5. Dwelling 32 shall comply with section 7 (BAL 29) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection.**

Landscaping

- 6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.**

REPORT:

Applicant: Baclon Pty Ltd
Owner: Baclon Pty Ltd Trading as Noble Lakeside Australia
Location: Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff
Zoning: 1(a) Rural
Cost: \$9,633,000

BACKGROUND:

The subject site is zoned Rural 1(a) pursuant to the Tweed Local Environmental Plan 2000 (TLEP 2000).

A summary of relevant consents is provided below:

- 12 April 1996 - Development consent issued for the erection of manufactured homes estate.
- 7 March 1989 - Development consent for an artificial waterbody was issued (87/430 Noble Caravan park Resort, comprising 396 caravan sites in six cluster locations, associated facilities and artificial lakes). This consent was granted by the Minister.
- The existing artificial lake was formed to provide fill for building platforms at the Q100 flood level. The caravan park component of the 1989 Consent was never constructed.
- March 1992 - a development application was lodged to fill certain land east of the property (DA92/353) which was at the time, in the same ownership. The additional eastern filling was to alter certain existing drainage channels on the land and to construct new perimeter drainage channels to the east. The proposal was a designated development. The eastern drains would drain independently of the property. Consent was granted by the Minister to this application in March 1993. Condition 10 of this consent required surrender of the 1987 Consent and provided a "retrospective recognition of an existing lake (Noble Lake)" and a Lake Management Plan to regulate future water quality in Noble Lake.
- 7 January 1993 - The 1989 Consent for the caravan sites and lake was surrendered, which extinguished any right to use the property for any purpose or any buildings or caravans.
- 12 April 1996 - Development consent for a manufactured home estate (95/442) was approved, providing for 234 sites in 7 stages, including an administration centre, community facilities and managers residence. The consent related to the whole land and the area around the perimeter of the lake was proposed to become 'open space for recreation' for the proposed manufactured home estate development. Landscaping was proposed around the shore of the lake.
- 10 December 1999 – Development Consent (No. K99/1447) was granted for a twenty additional sites at the existing manufactured home estate. This resulted in a total of 254 home sites.

- A s96 application to amend Development Consent 95/442 was received to create an additional home site to allow the erection of a manufactured home. The application was refused and subsequently appealed by the applicant in the Land and Environment Court. In 10 January 2005, the Court dismissed the appeal and the refusal was upheld. The Court found that resident's amenity would be adversely affected by the proposed dwelling as the character of the entrance to the estate would be fundamentally and seriously changed by the proposed dwelling. The loss of open space and views beyond the entrance were important and integral elements of the entry vista.
- November 2009 – Council received a Joint Regional Planning Panel (JRPP)/development application (DA09/0727). The proposal sought approval for the addition of 45 new manufactured home sites on the northern side of the on-site lake/artificial waterbody. Each new home is proposed to be constructed off-site and transported and installed on the property. Each manufactured home will contain two bedrooms and a study or media room as well as a garage. The proposal also comprises a single storey community recreation hall with a gross floor area of 90m², including associated swimming pool, facilities and outdoor terrace overlooking the lake. The application was recommended for deferred commencement approval by Council officers, however, the JRPP refused the application for the following reasons:
 1. *In accordance with Section 79(c) (1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to have a detrimental impact on the natural and built environment and detrimental social and economic impacts in the locality as the development will result in:*
 - *Loss of visual amenity for existing residents in the development because of loss of vegetation and change of view to urban environment;*
 - *Loss of amenity for existing residents due to loss of access to the nature walk;*
 - *Loss of amenity for existing residents due to increased noise from the proposed residences affecting the open space on the southern side of the lake;*
 - *Loss of visual amenity to adjoining properties due to the impact of the proposed fill, retaining walls and noise attenuation fencing;*
 - *The proposed community building will have a setback of only 20m to Tweed Coast Road and is therefore out of keeping with adjoining properties and other developments;*
 - *The impact of retaining walls. Council's design specifications specify that the maximum height of retaining walls & batters is 2.4m. The application is not in accordance with Council's specifications due to the excessive fill and height of retaining walls;*
 - *There is insufficient information to demonstrate that the development will not have a negative impact on flooding affecting neighbouring properties; and*
 - *The noise level impact assessment indicates noise from the adjacent trotting track will exceed background noise levels by 10dBa.*

2. Pursuant to Section 79C(1)(C) of the Environmental Planning and Assessment Act 1979 the site is not considered suitable for the proposed development for the following reasons:
- The proposed development will have a negative impact on the natural environment as the site is of ecological significance as part of a regional wildlife corridor and in providing habitat for wading birds and other wetland species, a number of which are listed as threatened on the Schedules of the Threatened Species Conservation Act 1995 and all existing vegetation is proposed to be removed.
 - A geotechnical report addressing the potential impacts of the development has not been provided. It is uncertain if the site is suitable for the development.
 - The design of the internal road as a combined road and walkway will adversely affect the safety and amenity of all residents.
 - The development requires excessive fill and alteration to the natural landform and the proposed cantilevered buildings overshadowing the lake which demonstrates that the proposal is an overdevelopment of the site.

Council was served notice of a Class 1 Appeal against the JRPP determination (proceedings number 10857 of 2010 in the NSW Land and Environment Court).

The JRPP was an intervener in this case.

LAND AND ENVIRONMENT COURT - OUTCOME

The hearing commenced on-site on 1 March 2010 and was listed to run for two days.

During the course of the first day, it became apparent that the hearing would most likely need to be extended for another three to four days given the complexity of various matters.

The proceedings were however, discontinued at the end of the first day.

This means that the Court made no decision in respect of the development application and the JRPP refusal still stands.

SITE AND SURROUNDS

The site is described as Lot 193 DP1014329 and is located at 34 Monarch Drive, Kingscliff. It has an area of approximately 21.9 hectares and includes a large artificial lake on the northern portion of the site.

The site is relatively flat, with the land adjacent to the northern boundary at approximately RL 1.7m AHD with the site sloping down towards the lake to approximately RL 0.70m AHD.

The allotment is currently improved with 254 existing manufactured homes, an existing community building, internal roads, services and a recreational hall.

Vegetation on site include slash pines, lawn and common garden species, mid open forest (located on the northern bank of the western section of the lake), low open woodland (around the northern bank) and aquatic vegetation around the banks of the lake.

Land to the north of the site is zoned 1 (a) Rural (containing dwelling house and horse stables and training track) and 5(a) Sewerage Treatment/Turf under TLEP 2000 and contained Council's former sewerage treatment plant. This site is currently being remediated as Council's sewerage treatment plant has been relocated to another nearby site in Chinderah. Land to the east of the site is zoned 5(a) Drainage and comprises of a drainage corridor. Further east, beyond the drain is residential land zoned 2(c). Land to the south of the site is comprised of rural land zoned 1(a) and 7(l) Environment Protection. Land to the west of the site is also zoned Rural 1(a) and 1(b2). The western boundary of the site adjoins Tweed Coast Road.

Overall, the surrounding character of the area as viewed from Tweed Coast Road is dominated by the pines on the boundary of the existing manufactured homes estate and rural land surrounding Tweed Coast Road. The character of the area around Monarch Drive is low density residential.

PROPOSAL

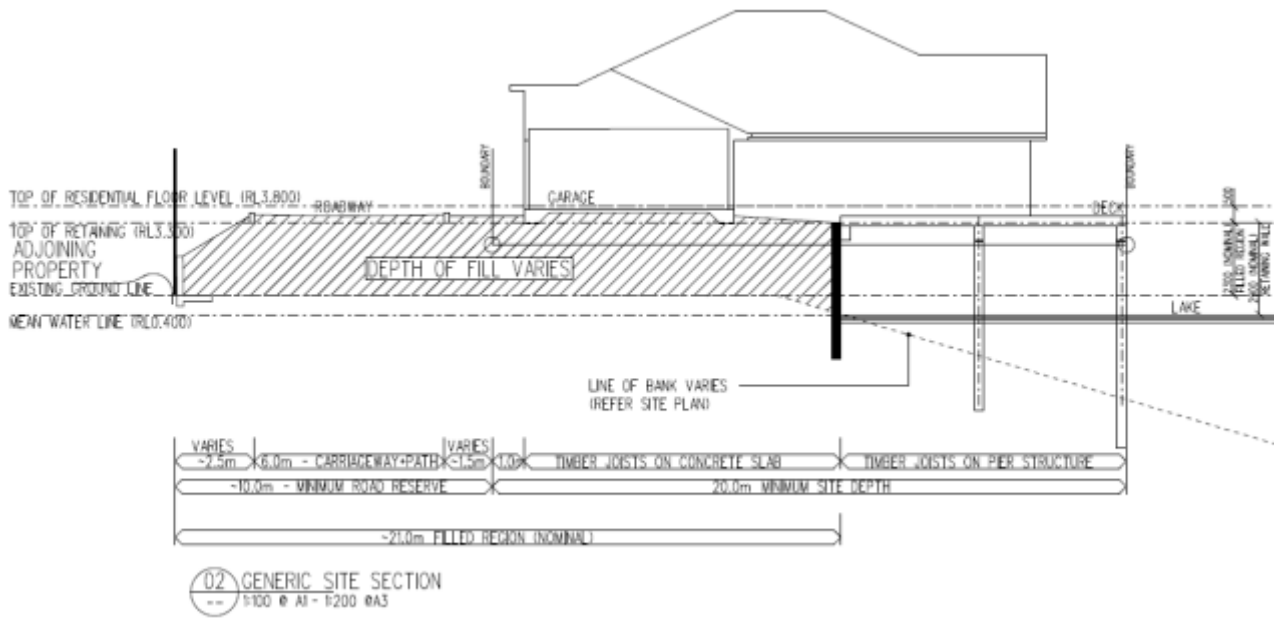
The proposal seeks the addition of 32 new manufactured home sites located on the northern side of the on-site lake/artificial waterbody. Each new home is proposed to be constructed off-site and transported and installed on the property. Each manufactured home will contain two bedrooms and a study or media room as well as a garage.

The proposal also comprises an internal road from Monarch Drive, recreation area, additional car parking, and emergency access point from Tweed Coast Road, an acoustic fence located adjacent to Tweed Coast Road and revegetation/compensatory habitat.

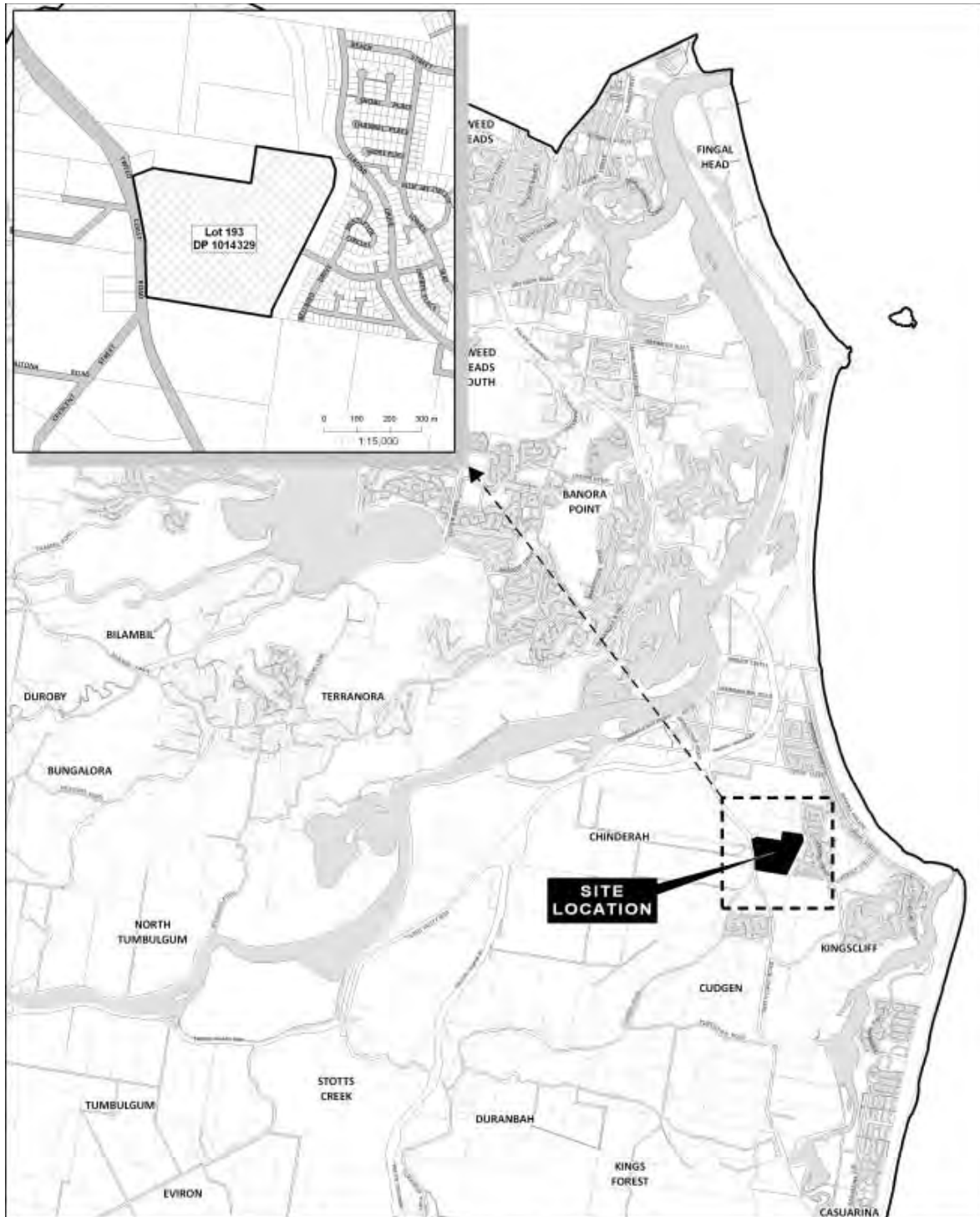
The proposed additional dwellings will use this access and continue through the existing internal road network, from Les Noble Drive along the north-west boundary and the northern perimeter of the lake.

The proposal includes filling and retaining walls around the north and western boundary of the lake to support the internal access road and to achieve a flat surface for dwelling platforms. Fill height ranges from approximately 2m to approximately 3m.

Each of the 32 manufactured dwellings will be partially cantilevered over the existing lake and in part supported by fill material, retaining walls and pier structures. The fill is required for dwellings to achieve Council's design flood level of 3.2m AHD and minimum habitable floor level of 3.7m AHD. The fill is to be supported by retaining walls 2.9m in height above the water line (with approximately 1.4m of retaining wall remaining below the water line), with the pier foundations located in the lake itself. Reference is made to the diagram below which details a generic section from the proposed retaining wall on adjoining northern property boundary to the piers located within the lake and the level of fill proposed.



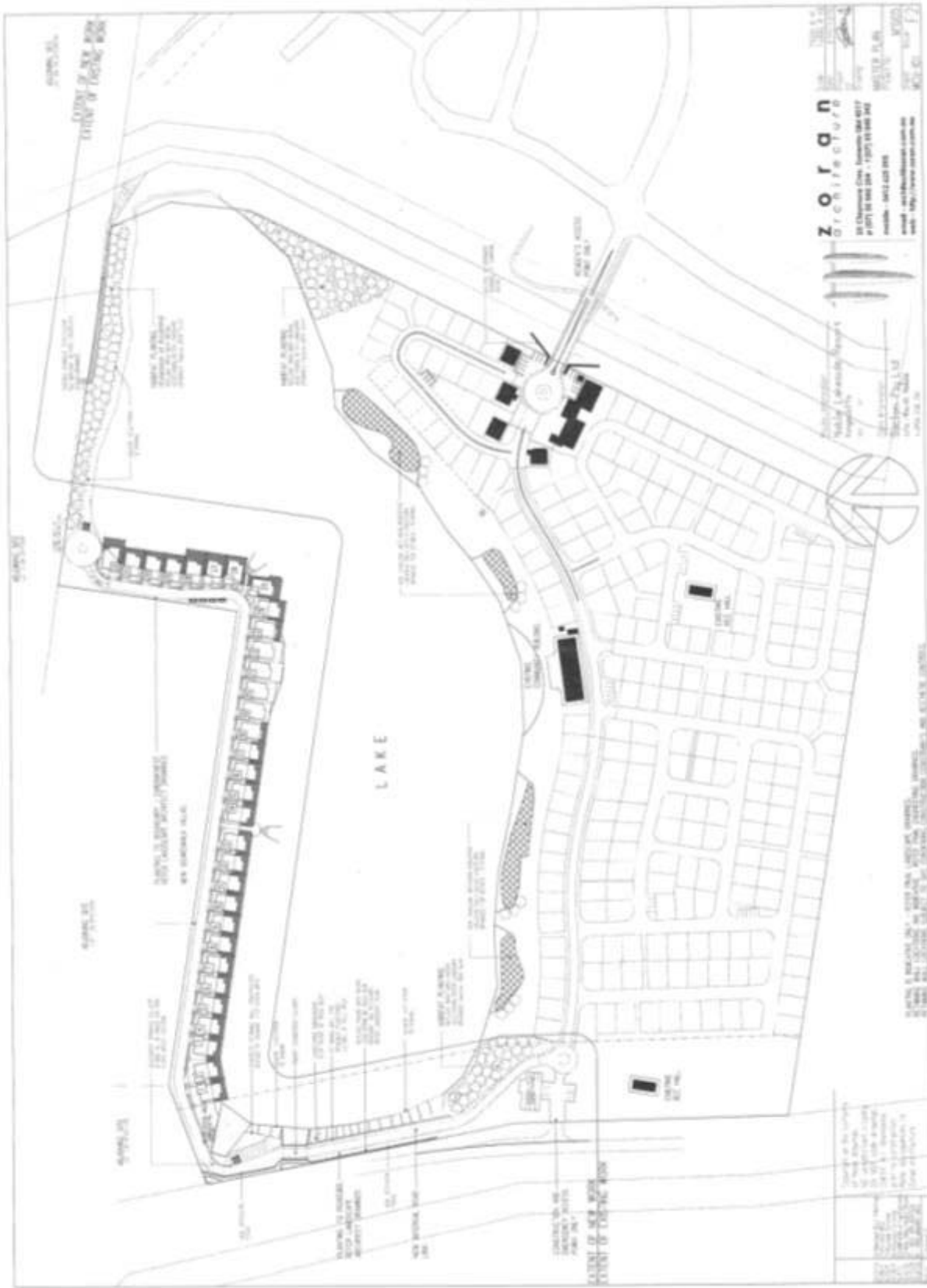
SITE DIAGRAM:

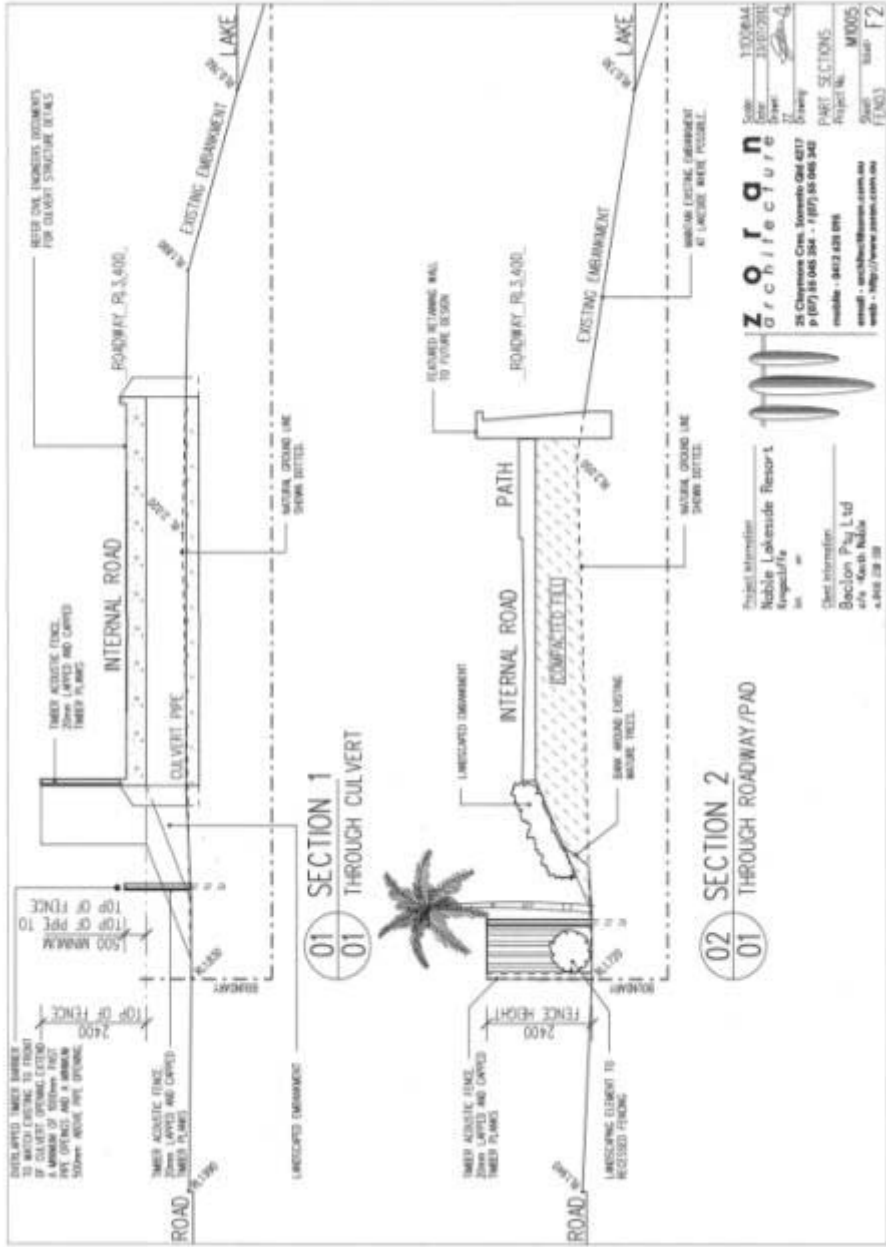


Locality Plan
 Lot 193 DP1014329
 No. 34 Monarch Drive, Kingscliff

<p>Disclaimer: While every care has been 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, or acceptance for all expenses, losses, damages, liabilities, actions or consequential damages and costs, which may be incurred as a result of data being inaccurate in any way and for any reason. This information is provided for the general public and is to be for informational purposes only. It should not be used for any other purpose and does not constitute a 'bid' before the 'lot' opening time for sale by public tender. The information contained on this document remains valid for 30 days only from the date of issue.</p>	<p>Created: 10 August, 2012 © Land and Property Management Authority (LPA) & Tweed Shire Council. Boundaries shown may be considered approximate only.</p>	<p>0 0.5 1 1.5km 1:60,000 @ A4 Portrait 10/01/12 10/01/12 10/01/12</p> <p> The Government of New South Wales Geographical Names Authority 10/01/12 10/01/12 10/01/12</p>	<p>Civil and Cultural Centre 2 Tumbulgum Road Murumbidgee NSW 2454 PO Box 816 Murumbidgee NSW 2434 T (02) 6070 2400 1360 250 812 F (02) 4870 3420 W www.tweed.nsw.gov.au E planning@twec.nsw.gov.au</p>	<p> TWEED SHIRE COUNCIL </p>
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DEVELOPMENT/ELEVATION PLANS:







TYPICAL INTERNAL STREETSCAPE

STEPPING STONES SURROUNDED WITH SELECTED GRAVEL

STEPPING STONE ACCESS TO METEOR BOX

FENCE OR GATE ALL GARDENS AND LAWNS IRRIGATED FROM LAKE

STEPPING STONE IN SELECTED GRAVEL PATH TO FRONT PORCH

SCREENING TO BOUNDARY STYZZOUAN AUSTRALIAN SHRUBS, HEDGERS AND GROWING ONIONS TO FRONT GARDENS VARIOUS SPECIES TO ALLOW DIFFERENCES BETWEEN HOUSES

PERLETT BAND BETWEEN GARDEN AND HOUSE

ENTRANCE PATH

STEPPING STONES SURROUNDED WITH SELECTED GRAVEL

HOUSE A

HOUSE B

HOUSE C

HOUSE D

HOUSE E

INTERNAL ROAD

LAKE

Z, Q, I, F, C, U, N

24 Chelmsford Court, Inverloch VIC 3217
 P (052) 5244 300 - F (052) 5244 340
 mobile - 0413 435 093
 www.zqifcn.com.au
 1300 767 277

TYPICAL HOUSING TYPES

PLANT PALETTE TO CONTRIBUTE THE THEME OF THE EXISTING PARK PLUS SPECIES ENDEMIC TO THE LOCAL AREA

- COASTAL SANDALWOOD
MYRTLE OLEA
- GREY IRONWOOD
EUCALYPTUS
- COASTAL SANDALWOOD
MYRTLE OLEA
- COASTAL SANDALWOOD
MYRTLE OLEA
- COASTAL SANDALWOOD
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- COASTAL SANDALWOOD
MYRTLE OLEA



PERMISSIBILITY AND EXISTING USE RIGHTS

The subject site is zoned 1(a) Rural and under the current TLEP 2000, manufactured home estates are prohibited in the 1(a) zone.

On 12 April 1996, development consent for a manufactured home estate (95/442) was approved (under the previous LEP), providing for 234 sites in 7 stages. As such, the proposal to construct an additional 32 manufactured homes on the site relies on existing use rights.

An assessment of the existing use rights was undertaken pursuant to the previous development application for 45 manufactured homes sites (DA09/0727). Council accepted the applicants Barrister's findings (Mr Patrick Larkin, applicants Barrister), with the proposal to extend the manufactured homes estate considered permissible (through existing use rights) and assessment of the proposal is limited to those matters under section 79C, excluding those relating to the provisions of any environmental planning instrument or any development control plan. That is, the clauses of any environmental planning instrument any clauses of any development control plan also have no force.

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

Not applicable due to existing use rights, refer advice above.

State Environmental Planning Policies

Not applicable due to existing use rights, refer advice above.

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

Not applicable due to existing use rights, refer advice above.

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

Tweed Development Control Plan

Not applicable due to existing use rights, refer advice above.

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

Clause 92(a) Government Coastal Policy

It is considered that the proposal will be consistent with the Coastal Policy, subject to conditions in relation to flora and fauna, erosion and sediment control and flooding impacts.

Clause 92(b) Applications for demolition

No demolition is proposed.

Clause 93 Fire Safety Considerations

Not applicable, no change of use proposed within an existing building.

Clause 94 Buildings to be upgraded

Not applicable, all proposed buildings are new buildings.

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

Tweed Shire Coastline Management Plan 2005

The site is not covered by the policy.

Tweed Coast Estuaries Management Plan 2004

The site is not covered by the policy.

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

The site is not covered by the 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

Despite the loss of vegetation proposed, the proposed additional manufactured homes are in keeping with the character of the existing manufactured home estate.

Whilst the character of the manufactured homes is in contrast to the adjoining rural land to the north and west of the site, the boundary between the adjoining rural site and the manufactured home site runs perpendicular to Tweed Coast Road and will not be visually prominent.

Access, Transport and Traffic

Access to the development is from Monarch Drive. Monarch Drive is a 10m wide urban collector road with kerb and gutter. An internal private road network servicing the estate connects with Monarch Drive. Access to the additional proposed manufactured dwellings is located off the internal road system (Les Knoble Drive). An addition to the internal road system is proposed to service the additional dwellings and is located along the western and northern boundaries of the lake.

The new road is proposed to have a 6m pavement width within a 10m road reserve for the allocation of services.

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (The Regulations) is applicable for road design. The Regulations defines the proposed internal road as a major access road (as it services more than 30 dwelling sites). The Regulations require that major access roads are required to be two-way access with a paved width of 6m. The application complies with this requirement.

The applicant has proposed an emergency access road at the western boundary of the site, which is also proposed as a temporary access to facilitate construction.

Designated Roads

Tweed Coast Road is listed as a designated road within Council's TLEP 2000. Clause 24 of the TLEP 2000 requires moveable dwelling parks to have a minimum setback of 50m to designated roads. The proposed manufactured home sites will have a setback of 50m to Tweed Coast Road, even though the setback requirements in Clause 24 are not strictly applicable given existing use rights.

The intent of the setback requirements is to ensure protection of visual amenity and adequate traffic safety and efficiency along designated roads.

No engineering issues are raised in relation to impacts on the efficiency of Tweed Coast Road, or the temporary access proposed during construction.

In terms of visual impacts, the applicant has advised that the frontage of the site will be landscaped and fenced and will be suitably screened, limiting visual prominence from Tweed Coast Road. In addition, the proposed acoustic fence has been suitably designed to reduce visual impact on road users of Tweed Coast Road.

The proposed setback is considered acceptable.

Bus routes/Shelters

It is noted that the next public transport service is via a bus stop 200m from the entrance of the site. This is considered to be an adequate outcome.

Pedestrians/Footpaths/Cycleway

No footpaths, cycleways or internal pedestrian walkways have been documented within the application. It is proposed that pedestrian use the low-speed internal access roads.

Traffic Generation/Assessment

An engineering report has been submitted with the application prepared by Opus and dated 5 September 2011.

In accordance with the traffic generation rates from Tweed Shire Council's Section 94 Plan No. 4 Tweed Road Contribution Plan Version 5.1 Table 7.1, the daily trip rate used from the Tweed Road Contribution Plan is 3.9 vehicles. The additional 32 manufactured dwellings will create an additional 124.8 vehicle trips per day. It is not considered the additional dwellings will affect the surrounding traffic network.

Construction Traffic

Construction traffic to the site will be approximately 48 trucks per day for a period of 7 weeks. This is based on 29,500m³ of imported fill material with a truck and trailer capacity of 20m³ also including a 20% bulking factor on the fill material. 1800 vehicle trips/truck movements (accounting for two way traffic movements, including the empty truck returning to the fill source) will occur every day to the estate to fill the site. This equates to six truck deliveries every hour, eight hours a day (7am to 5pm), five days a week for 7 weeks. This will create temporary amenity and noise issues for the existing residents in the manufactured home estate.

It is recommended that conditions are imposed to limit the impacts on the residents during construction. Construction vehicles will only access the site from a temporary point on Tweed Coast Road, further reducing the impacts on existing residential amenity.

Conditions are recommended to ensure a suitable and approved fill source is utilised.

Parking/Manoeuvring

The Regulations provide visitor car parking rates for manufactured homes estates as follows:

	No. of Dwellings	Space required	Total space required	Total space provided
Manufactured Homes	312	1 per home	32	32
Visitor/Disabled Parking	32	Minimum 8 required	8	16
Total`			40	48

The proposal complies with the Regulations.

Flora and Fauna

Council's Natural Resource Management (NRM) Unit have assessed the proposal and recommended appropriate conditions.

Ecological Values

The site is of ecological significance as part of a regional wildlife corridor and in providing habitat for wading birds and other wetland species, a number of which are listed as threatened on the Schedules of the *Threatened Species Conservation Act 1995*. Vegetation communities include Banksia woodland with regenerating littoral rainforest understorey, Swamp Oak woodland (partly cleared), some saline wetlands including mangroves at the northern extent of the site, as well as freshwater wetlands.

A vegetation community conforming in most aspects to the Scientific Committee determination for the Endangered Ecological Community (EEC) *Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner bioregions* is present and has been checked on site in terms of the suite of existing species, position on the floodplain and saline nature of surrounding waters and groundwater. However, the soil type is generally sandy and thus a determination that the EEC is present on the site is open to challenge. The applicant has agreed that terrestrial vegetation is significant and offered acceptable compensation.

The presence of vegetation communities conforming to the Scientific Committee determination for the EEC *Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions* is considered likely, however, is not certain due to the following statement within the Scientific Committee determination: "Artificial wetlands created on previously **dry** land specifically for purposes such as sewerage treatment, stormwater management and farm production, are not regarded as part of this community, although they may provide habitat for threatened species". It is not certain where water bodies are created on formerly **wet** land as applies in this case, whether the EEC determination may be applied.

Rehabilitation and Restoration

Approximately 220 native trees are proposed for removal over an area of around 5000m² to facilitate the development, as well as areas of terrestrial regeneration and wetland areas along the lake shore containing reeds and sedges. Whilst the loss is likely to have short-term impacts on local fauna foraging and possibly roosting use, compensation and restoration is proposed as follows:

- A total of 1250 native trees and shrubs area to be replanted in currently grassed areas totalling some 5000m²;
- Some 400m² of freshwater wetlands is proposed to be established through excavation and planting just beyond the current lake shore; and
- A billabong area will be retained and restored in the north-east corner. This area is particularly important as it connects with a bushland area being restored by Council to the north, and with scattered trees and groundcovers along the Kingscliff Drainage Canal to the south.

Overall it is considered that compensatory habitat is adequate to offset the loss in the longer term and this aspect has been conditioned.

Impact Assessment

Having regard to the ecological values and assessment it is considered that the proposal is unlikely to result in a significant impact on threatened species, populations or ecological communities.

The retention of important areas, removal of exotic species and the compensation offered and conditioned hereunder will allow continued use of the site as part of a wildlife corridor and in particular of wading species.

Fill and Retaining Walls

Council's Engineers have assessed the proposal and recommended appropriate conditions.

Retaining Walls

It is understood that the wall will be a free standing cantilevered structure, independent of the proposed dwellings, and that the dwellings will not be in contact with the wall. Minor settlements or rotation of the wall, should they occur, will have no effect on the integrity of the dwellings. The dwellings will be supported on piles and on the fill platform behind the wall. The wall will therefore be supported on piles and the fill platform behind the wall. The wall therefore is subject to surcharge loads from the dwellings and these will need to be taken in account in the local stability and structural design of the wall.

Settlement

The settlement due to filling and structural loads is estimated at a maximum of 63 to 73mm. The settlements in the sand are expected to occur rapidly and be completed within a few weeks following construction. The clay settlements are due to compression of the over consolidated clay and may take longer to complete.

Long term creep consolidation will occur but is expected to be relatively uniform across the site.

The retaining walls, piles and fill platform will all experience settlement from the deeper loose and firm soils.

It is recommended that a grid of settlement plates be installed across the site and monitored during filling and for a period thereafter to measure the actual settlements which occur due to the development. The period of time is to be nominated by the geotechnical engineer.

Settlement due to the filling and structural loads is estimated to be between 29mm and 63mm with between 16mm and 44mm of this occurring in the loose sand layers. Settlement in the loose sand layers is expected to occur during construction and be largely completed with a few weeks of completion of construction.

Long term settlements due to the site filling after construction is completed are therefore expected to be in the order of 20mm with 5mm to 10mm differential settlement between the piled section and the filled section.

Allowable Bearing Capacity

The report states that 'assuming the wall footing will be founded at 0.5m depth and allowing for buoyancy effects due to the shallow water table, the foundation in its current condition is assessed to have an allowable bearing capacity of 100kPa. This is insufficient as it is understood that the wall design requires the foundation to have an allowable bearing capacity of 200kPa.

The report recommends three options to gain sufficient bearing capacity of 200kPa:

- The 0.5m of medium dense sand below the wall footings can be densified using vibration compaction techniques;
- The wall footing can be supported on short piers extending through the medium dense sand and into the dense sand 0.5m below; or
- The wall can be founded at a greater depth. This however would require significant dewatering to facilitate construction.

The current foundation soils along the wall alignment are assessed to have an allowable bearing capacity of 100kPa. If the rock block retaining wall is founded at 0.5m depth, to achieve the design allowable bearing pressure of 200kPa will require the soil profile in the upper 0.5m below the footing to be compacted to a dense condition. Alternatively the footing can be supported on short piers extending into the dense sand approximately 0.5m below the footing level.

Global Stability

The global stability of the proposed retaining wall has been assessed using the computer program SLOPE/W. A number of conservative assumptions have been made to simplify the assessment including:

- Any contribution of the piles to improving the global stability of the lake edge has been ignored;
- Any contribution of the tie-backs in reinforcing the wall backfill has been ignored; and
- The fill has been assumed at RL 3.8m with a 10kPa surcharge for buildings and traffic loading.

The slope stability analysis indicate that a factor of safety of about 1.5 against a non-circular type slope stability failure requires a footing width extending 2.25m behind the toe of the wall. The factor of safety for conventional circular slip surface is estimated to be about 1.9. This is considered adequate. Therefore to achieve adequate factors of safety for global stability, the rock block retaining wall will need to be founded on a footing which extends 2.25m behind the toe of the wall.

Flooding and Impact of Fill and Acoustic Fence

Council's Planning and Infrastructure Engineers have assessed the proposal and recommended appropriate conditions.

According to the acoustic fence design, the fence runs along the property boundary but has been realigned to run over the large culverts provided through the access road in the north western corner of the site. This generally overcomes the hydraulic concerns, however still allows noise penetration through the culverts themselves.

To address this issue, the plans show landscaped earth mounds around the culvert inlets. The acoustic consultant supports this measure but requires the mounds to be significantly larger than has been proposed by the architect. The acoustic consultant has also nominated alternate treatments, being lapped fence sections or rubber inserts in the culverts. The applicant stated that they prefer the fencing alternative.

The problem for assessment is that there is little detail of the treatment options, and there is no hydraulic assessment of the alternatives. The mounding option is not preferred as it requires significant maintenance and would be difficult to secure in perpetuity. The use of rubber inserts would need hydraulic verification, and is prone to failure by blockage. The fencing option can be considered provided this left adequate openings. Overall the applicant has failed to provide the integrated design approach to solving this problem that was clearly required at the meeting of 13 July 2012.

Additional detail of the lapped fence option has been provided, however, this does not clearly show the extent of openings available to water flow. However, this is considered a viable approach, subject to further detail and certification by relevant experts with the construction certificate application.

Socio Economic Impacts

The Statement of Environmental Effects (SEE) included a socio-economic impact assessment (prepared by Jim Glazebrook and Associates Pty Ltd, September 2011). It identifies that the proposal would provide employment for the construction and housing industry and an additional stock of housing to accommodate population growth in the older age group. It also recognises that there would be an incremental increase in demand for services and facilities, most of which the proponent would contribute towards through section 94 contributions.

The proposal is considered to create a positive socio-economic impact.

(c) Suitability of the site for the development

Surrounding Landuses/Development

As identified above, the proposal adjoins rural land. It is proposed to treat the interface between the manufactured homes and the rural land with landscaping, retaining walls and fencing. Potential noise impacts from the adjoining trotting track will be mitigated through acoustic treatment in the dwellings.

Topography

The site is relatively flat and slopes down to the existing lake. The area to be filled has an average existing surface level of RL 0.70m AHD at the shoreline of the lake and varies to approximately RL 1.06 to 1.94m AHD at the northern boundary.

Availability of Services

Council's reticulated potable water supply is available to the area and has adequate capacity to allow for the proposed additional manufactured homes. Recommended conditions of consent require the provision of service in accordance with Council's Standards. Telecommunication and electricity services are provided to the site.

It is necessary for the applicant to obtain a section 68 approval to construct and to operate a sewage ejection system.

It is proposed that a condition requiring a 68 approval also include the requirement to demonstrate that the total sewage ejection system from both the existing and proposed development will operate satisfactorily.

Existing Title Restrictions

The land is burdened by the following restrictions:

- 3m wide easement for rising main located in the north west corner;
- 1m and 3.75m easement for electricity purposes;
- Right of carriageway with variable widths;
- Restriction to user - direct vehicle access to Chinderah Road is prohibited other than occasional access for the purpose of moving manufactured homes.

Council's water and sewer systems engineer has advised previously under DA09/0727, that the easement for the rising main in the north-west corner is no longer required due to construction of the new sewerage treatment plant. A condition is imposed recommending that this be relinquished. No other modifications to the title are required.

Acid Sulfate Soils (ASS)

The site is listed as class 3 on the Council's ASS Planning maps, which is relevant to works below 1 metre below the natural surface.

The applicant acknowledges that the proposed development may expose acid sulfate soils through the excavation of retaining wall footings. The applicant has also acknowledged that a preliminary investigation is required but has not carried out that investigation.

Given that the applicant has acknowledged that ASS may be present, a condition is recommended to ensure that soils investigation/testing be completed and that an Acid Sulfate Soils_Management Plan is submitted for approval prior to issue of a Construction Certificate.

Contaminated land

Pursuant to DA09/0727 the applicant was requested to provide information regarding decommissioning of the Old Cudgen Dip Site. An email was provided from the Division of Primary Industries which confirms that the site has been remediated and is 'suitable for standard residential use'. There should therefore be no impact on the subject site. Also the NSW Department of Primary Industries (DPI) website advises that the dips site is listed as 'Remediated'. In addition to this the property owner (Keith Noble) provided an undated statutory declaration to the effect that the site has not been subject to contaminating activities since 1963 (year which ownership took effect).

Council's Environmental Health Officers advised that no further information or action is required in regards to the dip sites.

Noise Assessment

The applicant had submitted a *Noise Level Impact Assessment – revision 1* (ref: Craig Hill Acoustics 30 June 2009). The assessment considered noise impacts on the proposed manufactured home sites from both road traffic and the adjacent trotting track. The assessment report also gave information in relation to 'modelled' traffic noise increases over a 10 year time frame.

Appropriate conditions are recommended to ensure the development shall be carried out in accordance with the noise attenuation measures recommended in the report of Craig Hill Acoustics.

The proposed design of the acoustic fence is considered acceptable.

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

The development application was notified and advertised for a period of 30 days from Wednesday 12 October 2011 to Friday 11 November 2011. A total of approximately 130 submissions were received. The main issues raised by the submitters are the same issues raised for the previous application DA09/0727. The table below includes the issue raised, the applicant's response and Council's response subject to DA09/0727 and an additional response relating to this proposal.

Issue	Applicants Response	Council Officer Comment DA09/0727	Council Officer Comment DA11/0456
<p>Area north of the lake was advertised as a nature walk and many residents purchased for this reason.</p>	<p><i>"It is always open for an owner to alter a development in response to changing circumstances. In this case it was the relocation of the Sewerage Treatment Works. As long as a development complies with relevant legislation and potential impacts can be satisfactorily managed, then there is no planning reason to restrict a development on this basis. The proposed development meets the criteria of complying with legislation and satisfactorily managing impacts."</i></p>	<p>The internal layout of the proposal was not part of an approved masterplan or concept plan.</p> <p>The Act allows for modifications, additions or extensions to existing use.</p>	<p>Council's comment to this issue remains unchanged.</p>
<p>Loss of walking trail through natural area. Loss of health benefits associated with the nature trail.</p> <p>Amenity values associated with the lake and surrounds will be lost.</p>	<p><i>"The informal walkway north of the lake will be replaced by a pathway constructed as part of the new road. Therefore there will be no loss of exercise area and a continual link around the lake will be retained. Landscaping adjacent to the dwellings and along the northern boundary will result in a pleasant streetscape. There is ample open space on the site."</i></p>	<p>It is acknowledged that the 'nature trail' is highly valued and utilised by the residents and provides amenity values to the site.</p> <p>Notwithstanding, the loss of the nature trail and associated amenity is considered acceptable in this case given:</p> <ul style="list-style-type: none"> - the proposal complies with legislative open space / community facilities requirements. - Areas for walking are available around the southern side of the lake. - Areas for walking are also available in the surrounding locality. - The proposal includes additional provision of community facilities. - The amenity of the estate will continue to be of a high standard given the remaining open 	<p>Council's comment to this issue remains unchanged, other than the proposal to update the existing communities facilities building, is not part of this application, and will be addressed through a future application to Council.</p>

Issue	Applicants Response	Council Officer Comment DA09/0727	Council Officer Comment DA11/0456
		<p>space and lake areas proposed to be maintained on the site.</p> <ul style="list-style-type: none"> - Only private, not public open space areas are affected. 	
<p>Over-development of the site.</p>	<p><i>"The MHE Regulation requires that 10% of the site must be set aside for recreational or other communal activities. The proposal substantially exceeds this requirement. It therefore seems implausible to argue that the proposal is an overdevelopment of the site. Furthermore, Tweed DCP 2008 Section B4 – West Kingscliff indicates that special residential development (eg. MHE estates) generally have a density of 24 dwellings per hectare. This proposal would result in a density of 14.3 hectare, well within this standard."</i></p>	<p>Council officers agree with the applicant's comments on this matter.</p>	<p>Council's comment to this issue remains unchanged.</p> <p>In addition, the proposal seeks approval for a reduced number of sites being 32 sites with the application no longer seeking approval for a community building.</p>
<p>The development is prohibited.</p>	<p><i>"The development is permissible with consent. Refer to legal advice."</i></p>	<p>The proposal has existing use rights. Council officers accept the legal advice provided in this regard.</p>	<p>Council's comment to this issue remains unchanged.</p>
<p>The proposal is contrary to section 96 of the EP&A Act.</p>	<p><i>"This is not relevant. The application is not for modification of the consent."</i></p>	<p>Section 96 of the Act is not relevant to this proposal.</p>	<p>Council's comment to this issue remains unchanged.</p>

Issue	Applicants Response	Council Officer Comment DA09/0727	Council Officer Comment DA11/0456
Flooding and drainage impacts on adjacent and surrounding land.	<i>“These impacts can be satisfactorily managed. Refer to Engineering Impact Assessment in SEE and attached letter from Opus.”</i>	Conditions are recommended to ensure that impact of filling is minimised. Traverse drainage (to accommodate 100 year flood levels) are required to be provided at all locations where the fill obstructs flow paths. Easements benefiting upstream land shall be created over such flow paths and structures. Detailed engineering plans of fill levels, perimeter and transverse drainage shall be submitted for council approval.	Council's comment to this issue remains unchanged.
Impacts on water quality.	<i>“These impacts can be satisfactorily managed. Refer to Engineering Impact Assessment in SEE and attached letter from Opus.”</i>	Several conditions are recommended to ensure management of erosion and sediment control and waste and potential pollutants.	Council's comment to this issue remains unchanged.
Effect on flora and fauna.	<i>“Refer to Flora & Fauna Assessment and additional information provided by James Warren & Associates (attached). This issue is satisfactorily addressed.”</i>	It is recommended that deferred commencement conditions require compensatory habitat planting. Refer to Schedule A of the recommendation.	The proposal is considered to satisfy effects on flora and fauna, through proposed compensation areas.
Noise impact on residents during construction.	<i>“As with any construction work that could potentially create noise impacts, it is expected that conditions of consent would limit construction hours and require maximum noise limits for construction machinery / vehicles.”</i>	Conditions are recommended to reduce impacts from construction, through limited hours and noise levels.	Council's comment to this issue remains unchanged.

Issue	Applicants Response	Council Officer Comment DA09/0727	Council Officer Comment DA11/0456
<p>Require buffer of 50m between 1(a) zoned rural land and urban land.</p> <p>Impact of noise on livestock from construction and residents. Impact on rural amenity.</p>	<p><i>“This is a unique situation where existing use rights apply. There are no planning controls applying to the site which require a specific buffer. Therefore, the development must be assessed on merits. As potential impacts can be satisfactorily managed, no increase in setbacks is seen as justified.”</i></p>	<p>The conflict between rural and urban land uses can be addressed through provision of level distances, landscaping and acoustic treatment of dwellings.</p> <p>The impact of noise on livestock from the development is considered to be negligible given the traffic noise levels already coming from Tweed Coast Road.</p>	<p>Council's comment to this issue remains unchanged.</p>
<p>Visual impacts on views across the lake.</p>	<p><i>“It is acknowledged that the outlook across the lake would alter. However this is not expected to be detrimental. The distance between the existing dwellings on the site and the proposed new dwellings varies from 130m to 200m (approximately). The proposed dwellings are low set, well designed and of high quality finishes. The visual impact would be acceptable.”</i></p>	<p>The comments made by the applicant are accepted.</p> <p>Impacts on views are reduced given the distance between the existing residents and the proposed dwellings. Further, it is noted that the lake is privately owned and not part of a foreshore or waterbody adjoined by public open space.</p>	<p>Council's comment to this issue remains unchanged.</p> <p>In addition, the proposal seeks approval for a reduced number of sites being 32 sites with the application no longer seeking approval for a community building.</p>

Issue	Applicants Response	Council Officer Comment DA09/0727	Council Officer Comment DA11/0456
<p>Increase in traffic within Noble Park and surrounding streets.</p> <p>Concern with one way in and one way out.</p>	<p><i>“Concern is raised regarding potential noise increase from additional vehicles within the estate and associated traffic / pedestrian conflicts, as well as potential impacts on surrounding streets. The design of roads within Noble Lakeside Park results in such low traffic speed environment that there would be negligible impact on amenity. There are no upright kerbs so pedestrians can easily move off the road when vehicles approach. The Engineering Impact Assessment in the SEE demonstrates that the traffic increase will not impact on the functional capacity of the surrounding streets.”</i></p>	<p>The width of the proposed road complies with the requirements of the Regulations for the number of dwellings it services.</p> <p>Council's standards do not apply to the internal road layout. The applicant has identified that emergency access will be provided in the north-eastern corner around the lake to the south.</p>	<p>Council's comment to this issue remains unchanged.</p>
<p>Concerns with the consultation process.</p>	<p>The applicant advised that plans of the proposed development were made available in the site office for residents to view. Residents were advised that if the majority supported the proposal and it was approved, funds would be available to upgrade existing facilities in the park. However, for this to occur, the applicant advised that the rentals must be upheld at market value to ensure costs of maintaining the facilities are met.</p>	<p>The application was notified and advertised in accordance with the requirements under the Environmental Planning and Assessment Act.</p>	<p>Council's comment to this issue remains unchanged.</p>

Agency Submissions

Office of Water

The application is integrated development due to proposed works within close proximity of a waterway.

The Office of Water provided a 'Stop the Clock' letter requesting further information on the stormwater treatments associated with the proposed development to be upgraded to include a bio-retention system to address the risk to the water quality of Noble Lake.

The Office of Water reviewed response information provided by the applicant and has provided General Terms of Approval (refer to recommended conditions).

Rural Fire Service

The proposal is located in a bushfire prone area and the Rural Fire Service has assessed the proposal and provided conditions.

(e) Public interest

There are no other matters of public interest considered applicable.

LOCAL GOVERNMENT (MANUFACTURED HOME ESTATES, CARAVAN PARKS, CAMPING GROUNDS AND MOVEABLE DWELLINGS) REGULATION 2005 (LGMHER)

Clause 6 of the Regulation requires that the estate comply with Division 3 of the Regulation and Council is not to issue a Section 68 approval where compliance does not exist. The applicant states that the proposal complies with the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. A suitable condition will be applied requiring a Section 68 approval to be obtained prior to installation of any structures and compliance with the Regulations.

OPTIONS:

1. Approve the application subject to recommended conditions; or
2. Refuse the application and provide reasons for refusal.

The Council officers recommend Option 1

CONCLUSION:

Council has received a development application for 32 additional manufactured homes at the existing estate at Lot 193 DP1014329, situated at No. 34 Monarch Drive, Kingscliff. The main issues associated with the proposal are potential for impacts from amenity, noise, flooding, fill and on-site vegetation. Conditions are recommended to mitigate potential impacts on the natural and built environments.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Finance Plan:

Not Applicable.

c. Legal:

If the applicant is not satisfied with the determination a right of appeal exists in the NSW Land and Environment Court.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

16 [PR-CM] Northern Joint Regional Planning Panel - Review of Council Appointed Panel Members

SUBMITTED BY: Development Assessment



Civic Leadership

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement to conduct an expression of interest process as the basis for Council to determine its Northern Joint Regional Planning Panel representatives for a new 3 year period, commencing from 1 January 2013. This action is necessary as the period of appointment of the current Council endorsed Panel members, as extended, expires on 31 December 2012.

New legislation and operational procedures for Joint Regional Planning Panels (JRPPs) were introduced by the previous NSW State Government in 2009. The primary function of the JRPPs is to assess regional significant developments, as defined under the Act. Additional roles relating to the assessment of larger rezoning processes have also been created. Various regional administrative areas were established across the State, including a Northern Region encompassing a group of council areas ranging from the mid North Coast to the Far North Coast. The Northern Joint Regional Planning Panel was established through separate expressions of interest and appointments of both the State Government and each Council in the Northern Region. For the assessment of each Development Application, the Panel comprises of 3 State and 2 Council appointed members.

Following a previous expression of interest process, Council, at an Extraordinary Meeting on 30 June 2009, resolved to appoint 2 local representatives for the Northern Joint Regional Planning Panel for a 3 year period, Ned Wales and Robert Quirk Jnr, and an alternate member, Steven Grimes. Given the impending Local Government Elections in September 2012, Council sought the approval of the NSW Department of Planning and Infrastructure to extend the appointment of the 3 Local Panel members for a further six month period, to provide an opportunity for the new Council to determine its local representatives beyond the expiry date of 31 December 2012.

In the period between June 2009 and October 2012, there have been a total of 15 JRPP applications lodged in the Tweed Shire, 13 of which have been determined, and 2 yet to be determined.

Also within this period, the State Government has reviewed its legislation and operating procedures for JRPPs.

The current State Government has recently outlined through the Green Paper on a Review of the NSW Planning Act of their intentions to maintain JRPPs in any new Planning Act.

It is therefore considered timely that the new Council review its appointed Northern JRPP members.

RECOMMENDATION

That:

- 1. Council endorses that an expressions of interest process be conducted for Council representation on the Northern Joint Regional Planning Panel; and**
- 2. A further report be submitted to Council on the results of the expressions of interest process, with a view to endorsing 2 Council Panel members, and an alternate Panel member for a 3 year period, commencing from 1 January 2013.**

REPORT:

Background

Origins of Joint Regional Planning Panels (JRPPs)

New legislation and operational procedures for Joint Regional Planning Panels (JRPPs) were introduced by the previous NSW State Government in 2009. The primary function of the JRPPs is to assess regional significant developments, as defined under the Act. Additional roles relating to the assessment of larger rezoning processes have also been created. Various regional administrative areas were established across the State, including a Northern Region encompassing a group of council areas ranging from the Mid North Coast to the Far North Coast. The Northern Joint Regional Planning Panel was established through separate expressions of interest and appointments of both the State Government and each Council in the Northern Region. For the assessment of each Development Application, the Panel comprises of 3 State and 2 Council appointed members.

Following a previous expression of interest process (Refer to Attachment 1 for an advertisement in the Tweed Link dated 26 May 2009), Council, at an Extraordinary Meeting on 30 June 2009, resolved to appoint two local representatives for the Northern Joint Regional Planning Panel for a 3 year period, Ned Wales and Robert Quirk Jnr, and an alternate member, Steven Grimes.

Given the impending Local Government Elections in mid 2012, Council sought the approval of the NSW Department of Planning and Infrastructure to extend the appointment of the 3 Local Panel members for a further six month period, to provide an opportunity for the new Council to determine its local representatives beyond the expiry date of 31 December 2012.

In the period between June 2009 and October 2012, there have been a total of 15 JRPP development applications lodged in the Tweed Shire, 13 of which have been determined, and 2 yet to be determined. (Refer to Attachment 2 for a list and brief description of these applications, as taken from the JRPP development register).

Changes to JRPP Legislation and Operational Procedures

As part of a broader legislative reform by the current State Government, the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011* (the Repeal Act) commenced on 1 October 2011. New classes of regional development were also set out in Schedule 4A, of the *Environmental Planning and Assessment Act 1979* (the Act). This schedule replaces the former classes of regional development set out in Part 3 of State Environmental Planning Policy (Major Development) 2005 (MD SEPP).

Savings and transitional provisions are set out in Schedule 6A clause 15 of the Repeal Act.

A new State Environmental Planning Policy (State and Regional Development) 2011 sets out the functions of regional panels in determining applications for regional development.

These functions have been transferred from Part 3 of the MD SEPP, which has been repealed.

The Repeal Act also makes changes to the way the chairpersons of regional panels are appointed.

Updated Development Thresholds for JRPPs to Determine

From 1 October 2011, the regional panels have determined the following updated classes of regional development:

- Development with a Capital Investment Value (CIV) over \$20 million
- Development with a CIV over \$5 million which is:
 - ✓ Council related
 - ✓ Lodged by or on behalf of the Crown (State of NSW)
 - ✓ Private infrastructure and community facilities or
 - ✓ Eco-tourist facilities
- Extractive industries, waste facilities and marinas that are designated development
- Certain coastal subdivisions
- Development with a CIV between \$10 million and \$20 million which are referred to the regional panel by the applicant after 120 days
- Crown development applications (with a CIV under \$5 million) referred to the regional panel by the applicant or local council after 70 days from lodgement as undetermined, including where recommended conditions are in dispute.

Refer to Attachment 3 of this report which contains a more detailed extract on the development types as outlined in Schedule 4A of the Act.

Relevant Legislation for Membership of the JRPPs

Attachment 4 of this report contains an extract from Schedule 4 of the Act which outlines the legislative requirements for State and Local appointed Panel members.

The legislation basically requires that councils need to appoint 2 Panel Members (with an alternate), at least one of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

There is also a maximum term of appointment of 3 years, before re-nomination of the Panel Members is required.

The latest Operating Procedures for JRPPs produced by the NSW Department of Planning and Infrastructure (See Attachment 6) provides further details on these appointments:

"Selection of council members

Each council identifies how their members are selected. In selecting members,, councils should have regard to the conflict of duties that would be created for a person nominated to the Regional Panel if they were in any way responsible for or involved in the assessment and recommendation of a matter to be determined by the panel.

Councils are not restricted to nominating people being from the council's local area. They can appoint, terminate, and reappoint, members at anytime, and can determine the duration of each appointment. Generally, so as to ensure the greatest continuity for the regional panels, councils should consider appointing members for the maximum term of three years provided for under the EP&A Act. However, councils should reconsider if the nominations to the regional panels are appropriate within 12 months following a council election.

Following a change to its nominees, council is to forward the new member's personal details to the secretariat as soon as possible and this must be a minimum of 14 days before any meeting at which they will act as a panel member.

If a council fails to nominate one or more council members, a regional panel may still exercise its functions in relation to the area of the council concerned."

Proposed Expressions of Interest Process

It is considered that the Expressions of Interest (Eol) process conducted for the current Tweed Council appointed members of the Northern Regional Planning Panel provided an appropriate mechanism for Council to attract people with relevant experience and qualifications for the assessment of JRPP development applications. It is proposed to conduct a similar process through an advertisement in the Tweed Link newspaper to seek Eol for a new 3 year term, commencing from 1 January 2013.

OPTIONS:

1. Council endorses the recommended Expressions of Interest process for Council representation on the Northern Regional Planning Panel for a 3 year period, commencing from 1 January 2013; or
2. Council re-appoints the current Council representatives on the Northern Regional Planning Panel for a 3 year period, commencing from 1 January 2013.

CONCLUSION:

The period of appointment of the current Council representatives on the Northern Regional Planning Panel expires on 31 December 2012. It is considered that an Expressions of Interest (Eol) process is an appropriate mechanism for Council to attract people with relevant experience and qualifications for the assessment of JRPP development applications for a further 3 year period, commencing from 1 January, 2013.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Council is required to pay for certain costs of the Local Panel members, and the administration of JRPP Meetings. Costs incurred are as follows:

2009/2010	\$4,250
2010/2011	\$14,400
2011/2012	\$1,900

These costs are allowed within the operational budget.

c. Legal:

The NSW Planning and Environmental Assessment Act 1979 outlines a series of legislative requirements for the assessment of regionally significant developments, and the operation of Joint Regional Planning Panels.

d. Communication/Engagement:

It is proposed to place an advertisement of an Expressions of Interest process for Council representatives on the Northern Regional Planning Panel for a 3 year period, commencing from 1 January 2013.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1 Copy of advertisement of an Expressions of Interest process for Council representatives on the Northern Regional Planning Panel in the Tweed Link 26 May 2009. (ECM 57499842)
 - Attachment 2 List and brief description of Tweed Shire Council JRPP development applications 2009-2012, as extracted from the JRPP web site development register. (ECM 57500870)
 - Attachment 3 Extract from Schedule 4A of the Environmental Planning and Assessment Act 1979. (ECM 57500873)
 - Attachment 4 Extract from Schedule 4 of the Environmental Planning and Assessment Act 1979. (ECM 57500885)
 - Attachment 5 Fact Sheet on What are the functions and roles of Joint Regional Planning Panels (Regional Panels)? (ECM 57500886)
 - Attachment 6 Copy of correspondence from the Minister for Planning and Infrastructure dated 25 September 2012 and revised Operating Procedures for Joint Regional Planning Panels (ECM 57711994)
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REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

17 [CNR-CM] Richmond Tweed Library - Governance Model

SUBMITTED BY: Director



Supporting Community Life

SUMMARY OF REPORT:

Council entered into an agreement with Lismore City Council in 1973 for the provision of joint library services. Ballina Shire and Byron Shire also signed similar agreements with Lismore City Council. The autonomy of the Richmond Tweed Regional Library does not meet with the legislative requirements of the 1993 Local Government Act and the Richmond Tweed Regional Library (RTRL) is not a legal entity. In December 2009 the RTRL committee resolved to move towards the administrative model under the 1970's agreements and act in the interim to comply with the Local Government Act. This action is substantially complete however no formal delegation exists for Lismore City Council to undertake this service on Tweed's behalf. In June 2011 the Library Act 1939 was amended with the aim of providing greater flexibility to councils considering shared delivery of library services.

Following differing resolutions from member Councils, a Business Model Considerations Workshop was held in June 2012 with the RTRL Committee, Mayors and General Managers in attendance. Subsequent to this, a report on the outcomes was considered by the RTRL Committee at its August 2012 meeting and it resolved:-

That:

- 1. The RTRL Committee receive and note the outcomes from the Business Model Considerations Workshop.*
- 2. Member Councils be advised of the RTRL Committee's in principle support of the outcomes from the Business Model Considerations Workshop and seek their support to develop an RTRL Partnership Agreement based on the outcomes.*

Seconded: Councillor K Johnson (Ballina)

Carried 5/6 with Councillor K Milne (Tweed) against

Council needs to determine its position on the matter.

RECOMMENDATION:

That Council:

- 1. Supports the outcomes from the Business Model Considerations workshop held between the four member Councils of the Richmond Tweed Regional Library (RTRL) Service in June 2012 namely:**
 - A Richmond Tweed Regional Library Partnership model be developed.**
 - The basis of the RTRL Partnership model be:**
 - a. The current operating model, and**
 - b. Complies with Local Government Act 1993 and Library Act 1939, and**
 - c. The role of the RTRL Committee be strengthened, and**
 - d. Appropriate delegations from member Council's be provided, and**
 - e. Contemporary governance practices applied, and**
 - f. Issues raised with the budgeting, member Council contributions, staffing, member Council withdrawal and financial reporting are to be reviewed.**
 - g. The RTRL Partnership Model agreement be developed by the member Council General Managers and reported back to the RTRL Committee.**

- 2. Explores the opportunities for the future delivery of Library Services within the Shire including what services and facilities should be provided and what opportunities for shared arrangements outside of the four member Councils and opportunities for alternative delivery arrangements.**

REPORT:

The consensus outcomes from the Business Model Considerations Workshop were:

- An RTRL Partnership model be developed
- The basis of the RTRL Partnership model be:
 - a. The current operating model, and
 - b. Complies with Local Government Act 1993 and Library Act 1939, and
 - c. The role of the RTRL Committee be strengthened, and
 - d. Appropriate delegations from member Council's be provided, and
 - e. Contemporary governance practices applied, and
 - f. Issues raised with the budgeting, member Council contributions, staffing, member Council withdrawal and financial reporting are to be reviewed.
 - g. The RTRL Partnership Model agreement be developed by the member Council General Managers and reported back to the RTRL Committee.

The Library Committee and the Administrative Council have requested all member Councils to consider this matter. Council's support of the proposal to develop an RTRL Partnership agreement based on the consensus outcomes is sought. The development of an RTRL Partnership will not be progressed unless all member Councils are in agreement.

Council most recently dealt with this matter at its meeting of 20 March 2012 when it resolved as follows:

RESOLVED that Council:

1. *Notes the current status of resolutions from Byron, Lismore and Ballina councils relevant to the Richmond Tweed Regional Library.*
2. *Advises Lismore, Ballina and Byron councils that it will not be a participant in the Richmond Tweed Regional Library should a county council option be the preferred model of the other councils.*
3. *Advises Lismore, Ballina and Byron councils that Tweed Shire Council will continue to be an active participant in identifying a preferred model for the provision of library services, exclusive of the county council option.*
4. *Initiates preliminary discussions with Gold Coast City Council in relation to the provision of joint library services.*

Preliminary discussions only have been held with Gold Coast City Council representatives with no firm proposals or suggestions developed. This proposal and the current governance model discussions held between the four member Councils does raise the question of how will our libraries look and feel and what services will be delivered through them in the next five to ten years.

The following points are of note:

- Technology is forever changing and electronic books are becoming more prevalent in our modern society.
- Other organisations are delivering like services in our locality.
- Community hubs and focal points are recognised as an important fabric of society.
- Libraries are changing and need to change.
- Libraries are now seen as facilities where learning takes place, often being referred to as Learning Centres.
- Libraries also provide an opportunity for many local government authorities to deliver a diversity of services outside of normal operational hours.

It is with this in mind that the focus needs to shift from the current longstanding debate over Governance to how and what will be delivered in the future.

OPTIONS:

1. That Council supports the "Partnership" model with additional functions delegated to the Library Committee.
2. That Council supports the "Administrative" model.

CONCLUSION:

At this stage it is proposed that Council supports option 1 above which was the outcome of the member Council meeting in June 2012. Notwithstanding this it is considered prudent that Council give further consideration to the long term direction of Library services in terms of how they look and feel and what services are provided and what opportunities are there for alternative governance and delivery models.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 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
- 2.1.3.6 Constituent member of Richmond Tweed Regional Library Service

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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18 [CNR-CM] Drought Water Restrictions Policy

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

The Drought Management Strategy adopted by Council in November 2009 recommended a review of the drought water restrictions, restriction triggers and targeted savings in 2012. Proposed revised drought water restrictions were exhibited to the public from 5 December 2011 to 31 January 2012 after being presented to Council at its meeting in November 2011.

Four submissions were received and are discussed in this report. It is considered that the drought water restrictions remain as exhibited and the proposed draft Drought Water Restrictions Policy be placed on public exhibition.

RECOMMENDATION:

That Council:

- 1. Notes the relevant content of submissions received on the draft drought water restrictions when they were exhibited from 5 December 2011 to 31 January 2012.**
- 2. Exhibits the draft Policy entitled “Drought Water Restrictions” and accepts public submissions for a period of four (4) weeks from 5 November 2012 to 3 December 2012 as per Section 160 of the Local Government Act 1993.**
- 3. Staff prepare a subsequent report to Council, summarising any submissions received and including a final draft of the Drought Water Restrictions Policy for formal adoption by Council.**

REPORT:

Background

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.

Council resolved to place the revised drought water restrictions on public exhibition from 5 December 2011 until 31 January 2012, to give members of the public and other stakeholders an opportunity to submit their comments.

Four submissions were received during the exhibition period and the salient points raised in these submissions are summarised and discussed in this report. While some of the points are relevant to the Demand Management Strategy as a whole, it was concluded that no changes to the draft drought water restrictions were warranted as a result of the submissions received.

Officers are now of the view that that the draft drought water restrictions would best be incorporated in an official Council Policy entitled "Drought Water Restrictions Policy" to formalise the drought water restriction levels, the triggers for each level of drought water restrictions and the targeted water savings at each level.

It is desirable that Council adopts a set of revised drought water restrictions as soon as possible to ensure ongoing management of water security and to manage any risks during the Clarrie Hall Dam spillway upgrade in the coming year.

It is now proposed that the draft Drought Water Restrictions Policy be placed on public exhibition to give the community a final opportunity to comment on the draft water restrictions and implementation methodology before adoption by Council.

Summary of Submissions

The draft drought water restrictions were placed on public exhibition from 5 December 2011 to 31 January 2012. Submissions were received from the following individuals and organisations:

Ref. No.	Name	Date Received	Received by	ECM No.
1	Mr C. H. Ainsworth	15 December 2011	Email	43410630
2	Ms Menkit Prince	30 January 2012	Email	45555892
3	Ms Joanna Gardner	31 January 2012	Email	45982585
4	Tweed Heads Environment Group Inc.	31 January 2012	Email	45597510

Submission No. 1

Submission 1 put the case that there would be no need to consider drought water restrictions if the proposed dam at Byrill Creek was built. It stated that the dam should be built now to provide water certainty into the future and that Council will stand condemned if the dam is not constructed.

Discussion

The drought water restrictions are only one component of Council's approach to ensure water security. It is not intended to use these restrictions as a mechanism to reduce water demand unless they are triggered during drought conditions. The main aim of augmenting the water supply would be to provide for population growth as opposed to the avoidance of drought restrictions. The need to impose restrictions during drought could occur whether or not a new dam is built or whether or not the existing Clarrie Hall Dam is augmented.

The Drought Management Strategy adopts current NSW Office of Water (NOW) guidelines in respect to levels of service for water supplies and drought water restrictions due to drought. The levels of service are described by the 5/10/20 rule. This rule underpins the reasonableness of drought restrictions. Levels of service under this rule are defined as follows:

- restrictions are implemented no more than 5% of the time, on average
- restrictions are imposed no more than once every 10 years on average
- demand reductions during drought restrictions should be 20%.

Council's strategies for demand management, water supply augmentation, emergency supply options and business continuity planning are the other key parts of Council's water security framework.

Submission No. 2

Submission 2 states that people who use less than 140L/day should be allowed to choose whether they use water to wash windows, driveways, cars, water their gardens or anything they choose, provided they do not exceed 140L/day. For example, there should be an option for a person to have really short showers and use the water they might have showered with for another household purpose. It might be possible to limit showers to three minutes at a time. Use of washing machines and dishwashers should be targeted.

The submission also states that if Tweed Shire had recycled water and stormwater harvesting in place then golf courses, sports grounds and public gardens could be watered year round irrespective of dam water available. This would greatly obviate the need for drought water restrictions in most cases.

Discussion

While this practice of restricting daily water use per person would be very useful, it is not feasible with Council's current fleet of water meters and existing meter reading regime. Even with the advent of smart metering, such a restriction would be difficult to measure and control. It is important to note that all other local water utilities around Australia face the same issues.

Water meters measure the entire household water use and Council does not have information about the occupancy of dwellings to be able to calculate the consumption per person directly. At present, meters are read once every six months and an average daily water use is derived from these figures for each property. To calculate the usage on a per person basis, the total residential water use is divided by the connected population. This data is only available historically, from the latest meter readings.

It is therefore not possible to directly measure the daily use per person however; this type of information may be available in the future as smart metering is installed in new development areas.

Limiting indoor water use is also problematic as it is impossible to enforce. For this reason, the draft drought water restrictions and drought water restrictions imposed elsewhere focus on outdoor water use. During a drought, once drought water restrictions are implemented, fines can be imposed for water use that does not comply with the advertised restrictions. Outdoor water use can be observed by Council staff such as rangers and water/sewer operators and the general public to assist with enforcement.

While the drought water restrictions do not restrict indoor water use, studies by Sydney Water have found that during drought water restrictions, many people reduce water use inside their homes as well.

Targeting water use in washing machines and dishwashers would again, be difficult to enforce. Customers could be offered an incentive to purchase water efficient appliances through the offer of a rebate. Council is currently launching a residential rebate for dual flush toilets and other rebates will be considered when planning for year 3 of the residential water saving program is carried out.

In response to the submission's comment regarding recycled water and stormwater harvesting, both options are fully supported by Council's Integrated Water Cycle Management Strategy. Council has operated a number of recycled water schemes for several years and is in the process of implementing others. Many of these are to water golf courses and sports grounds year round. Strict state guidelines apply to such schemes and a lengthy lead time is required to design, gain approval for and implement new schemes.

While Council has not identified any significant stormwater harvesting opportunities to date, developers are encouraged to consider alternative water supply options on a case by case basis. Retrofitting recycled water schemes and stormwater harvesting schemes to existing areas is cost prohibitive.

Having more recycled water and stormwater harvesting schemes would not obviate the need for drought water restrictions in most cases, as the submission suggests. The greater portion of water use by all sectors would not be affected by providing recycled water and/or treated stormwater to a relatively small number of non-residential properties. The resulting reduction in water demand would not be sufficient to prevent drought water restrictions altogether.

Submission No. 3

Submission 3 put forward the following key points.

- That during the last drought cycle in 2002-2004, drought water restrictions were brought in too late.
- A large part of the reason that Clarrie Hall dropped to such low levels was also due to large releases made from the dam to try to get rid of algal bloom. A step to resolve this would be to fence perimeters of the dam from livestock and implement measures to reduce nutrient run off into our water ways.
- 140-150 litres per person are adequate and the basis of 180 litres is over generous.
- Businesses should also be restricted, as the target seems to be primarily for residential use. Businesses should already be implementing large-scale rainwater capture and reuse of water.
- Shires within South-East Queensland (e.g. Pimpana/Coomera) and many parts of NSW and Sydney are reusing reclaimed water for toilets and external use (including stormwater harvesting and dual reticulation) in order to drought-proof future water supplies.
- Council's State of the Environment Report for 2010/2011 reports that 8726 ML of reclaimed water was dumped into the already nutrient rich Tweed River, with only 4.8 % of reclaimed water being reused. This is a waste of water and Council should reconsider its Drought Management Strategy to include external reuse of reclaimed water that is now wasted.
- To be reliant in droughts solely on a dam is short-sighted. Recommendations from the QLD Department of Environment point to a need to broaden and decentralise the base for water supply and use appropriate water quality for appropriate needs.
- Council, while still continuing their dam option policy should be aware that a purely dam water supply option is regarded by our community as being unsustainable and that a future dam option, particularly at Byrrill Creek, will not be supported by residents.

Discussion

The last time Council was required to respond to drought conditions was in late 2002/early 2003. This occurred before Council had adopted the current Drought Management Strategy, which considers the rapid drop in dam level once drought conditions occur. Many east coast water utilities in NSW and QLD found themselves in a similar situation during that time. For this reason, Council's latest drought water restrictions comprise levels 2, 4, 6 and 7, skipping some levels to allow for the rapid demand reduction required.

Limiting the access of livestock to water catchment areas continues to be a priority and is being addressed through Council's development of a Drinking Water Catchment Management Plan. The risk assessment process adopted to develop the plan broadly identifies the hazards impacting on the drinking water catchment. Council also operates an aerator on Clarrie Hall Dam to reduce the chance of algal blooms.

Regarding the implementation of other measures to reduce nutrient run off into waterways, work is under way to review Council's On-Site Sewage Management Strategy and Urban Stormwater Quality Management Plan, both action items identified in the IWCM Strategy.

While the actual average daily residential water consumption was 173 L/person/day in 2011/2012, the targeted water savings at each water restriction level are based on an average residential water use of 200L/person/day. A reduction to 180 L/person/day is assumed by 2013 through the Target 180 campaign which is being rolled out as part of the implementation of the demand management programs. In the draft drought water restrictions the target total residential consumption is 170, 160, 150 and 140 L/person/day at levels 2, 4, 6 and 7 respectively. A target of 140 to 150 L/person/day as suggested in Submission 3 would not be achievable for many years. Even SEQ, with its recycled water use, is targeting 230 L/person/day under normal weather conditions.

The draft drought water restrictions cover a range of restrictions for all sectors using water outdoors, including business. The consumption targets in the drought water restrictions are based on residential use because this sector accounts for the majority of usage in the shire and setting targets for business is not feasible because of the many variables affecting business water use such as type, size, occupancy, age etc.

Enabling business and commercial premises and water users to continue operating as normally as possible, for as long as possible, without undue hardship, was an important consideration in drafting the drought water restrictions. The draft restrictions reflect a desire to minimise the impact on business and commercial water users, while reducing unnecessary water use as the restriction level increases. Given that non-residential water users are specifically targeted as part of the Demand Management Strategy, it is envisaged that many of these premises will be efficient water users prior to restrictions being imposed.

Results from Council's Top 20 and Top 100 water saving programs for non-residential water customers suggest that for most businesses in the shire, large-scale rainwater capture and reuse of water are not cost effective options. Notwithstanding, businesses will be encouraged to consider these alternatives and other water saving opportunities as participants in these programs.

Large-scale reclaimed water, dual reticulation and stormwater harvesting schemes generally need to be implemented in Greenfield development areas. Council encourages developers to consider these options at the development stage.

In 2010/2011 (result for 2011/12 not yet available) the percentage of reclaimed water (wastewater treatment plant effluent) recycled was 4.8% compared with the 2013 Demand Management Strategy 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 irrigation of 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.

The drought water restrictions are only one component of Council's approach to ensure water security. Council is not relying solely on a dam option policy to meet future water supply needs as Submission 3 implies. Council's strategies for demand management, water supply augmentation, emergency supply options and business continuity planning are the other key parts of Council's water security framework.

Submission No. 4

The following key points are made in Submission 4.

- The Drought Management Strategy Water Restriction document advises that “the residential sector accounts for the majority of usage in the shire (approximately 75 per cent)” and makes no disclosure of other classes of water usage. The State of the Environment Report 2010/2011 reports that the residential use of drinking water is 60.52%. Overstating the percentage of residential numbers is not beneficial to knowing the amount of drinking water saved.
- The State of the Environment Report 2010/2011 reports that the non-residential use of drinking water is as follows: commercial/industrial use 16.59%, unaccounted for water 16.23% and sundry usage totalling 4.66%. Unaccounted for water (leakage) continues to rise (.74%) despite considerable Council expenditure to reduce leakage. Sales of bulk water is shown as 0%, which is surprising since Council trucks have been seen using drinking water to water new road construction during 2011 and it would be unusual for there to be no usual sales of water to regular water users. On the other hand Gold Coast City water trucks are seen watering their park areas with reclaimed water. The question is raised whether some drinking water is being stolen or not recorded for Council usage but is being included in the unaccounted for water of 16.23%.
- Tweed Heads Environment Group Inc. supports Council’s proposed drought water restrictions on the use of drinking water as adopted by the Queensland Water Commission affecting areas in South East Queensland and Rous Water to the south.
- Council has not provided any residential end use breakdown (L/household/day, percentage), which supports any of the ‘Targets’ for demand reduction. As an example, the Drought Management Strategy indicates external use to be at 23% of residential consumption. At 182 litres per person per day (State of the Environment Report 2010/2011), this percentage usage would be 42 litres per person per day. By comparison, prior to the Millennium Drought, residents of SEQ used on average more than 120 litres per person per day for outdoor irrigation.
- Parts of South-East Queensland, many parts of NSW and Sydney are reusing reclaimed water for toilets and external use in order to drought proof future water supplies. On the other hand, Tweed Shire Council with a population of 77,177 (2010/2011) connected to water, would reclaim approximately 7042 mega-litres each year of which 94.2 % is discharged into already nutrient rich waterways. The State of the Environment Report 2010/2011 reports that 8726 ML of reclaimed water was dumped into the already nutrient rich Tweed River, with only 4.8 % of reclaimed water being reused.
- Tweed Heads Environment Group Inc. requests that Tweed Shire Council again reconsiders its Drought Management Strategy to include external reuse of reclaimed water now wasted.
- Council, while still continuing their Dam option policy should be aware that this water supply option is regarded by our community as being unsustainable and that a future Dam option will not be supported.

Discussion

The figure of 75% for residential water use mentioned in the November 2011 report to Council was incorrect. The correct breakdown of water consumption in 2010/2011, as reported to the NSW Office of Water, is provided in the table below. The breakdown of water consumption in 2011/2012 is currently still being finalised.

Sector/Type of Use	Percentage of Total Consumption
Residential	60.52
Commercial	17.46
Industrial	1.58
Rural	1.19
Institutional	1.98
Bulk Sales	0.00
Public Uses	1.04
Estimated Leakage	6.00
Unbilled	0.50
Meter Inaccuracies	1.21
Unaccounted for Water	8.53
Total	100.00

The draft drought water restrictions have been designed to target outdoor water use by as many of the above sectors as possible. Existing and future demand management programs will address water use by sectors that cannot be targeted using drought water restrictions, in particular, leakage and unaccounted for water.

The Drought Management Strategy does provide a breakdown of residential water use by end use, considered in setting the triggers and demand reduction targets set out in the Strategy. As mentioned above, the draft drought water restrictions have been designed to target mainly outdoor water use because it is not feasible to enforce restrictions on indoor water use and leakage. Indoor water use by the residential sector is being addressed through general demand management promotions and the residential rebate/retrofit program which was launched in July 2011 and will run over three years.

Submission 4 makes special mention of unaccounted for water and the possible theft of water. These issues will be thoroughly investigated when the Unaccounted for Water project is implemented as part of the Demand Management Strategy. This project will review Council's policies and procedures relating to standpipe use by all stakeholders, water carting and security of access points.

Bulk sales of water do not include water used by water carters and other commercial operators. Bulk sales are generally sales to other water utilities. Water use by carters is included in the commercial sector.

As discussed previously, in 2010/2011 the percentage of reclaimed water (wastewater treatment plant effluent) recycled was 4.8% compared with the 2013 Demand Management Strategy 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 irrigation of 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.

Other points raised in Submission 4 have been discussed previously in addressing earlier submissions discussed above.

CONCLUSION:

Notably, none of the submissions made any comments relating directly to the content of the drought water restrictions such as watering times, restricted uses of water at different levels and/or permitted uses.

No submissions were received from business water customers that may be affected by the restrictions at higher levels.

All of the issues raised in submissions are either being addressed or will be addressed by current and future IWCM and demand management programs.

It was decided that no changes to the draft drought water restrictions were warranted as a result of the submissions received.

The draft Drought Water Restrictions Policy was therefore prepared using the exhibited draft drought water restrictions as a basis.

COUNCIL IMPLICATIONS:

a. Policy:

New Corporate Policy. Once adopted, the Drought Water Restrictions Policy will underpin Council's Drought Management Strategy. A Communication Plan will be developed ready for implementation should drought water restrictions be introduced.

b. Budget/Long Term Financial Plan:

In the event of drought water restrictions being imposed, significant Council resources would be required to manage their implementation. Activities would include, but not be limited to: advertising, mail outs, answering customer inquiries, promotion on radio/in papers, media releases, training for and carrying out enforcement, monitoring and reporting water use by all sectors, escalation planning, lifting restrictions etc. There is no specific budget allocated for the implementation of drought water restrictions. In the event they are required, budget would need to be met by the Water Fund.

c. Legal:

Council is required to exhibit the draft Policy for a minimum of 28 days as per Section 160 of the Local Government Act 1993.

The Local Government Act (1993) and Local Government Regulations (2005) confer on Council the authority to prevent waste or misuse of water generally and specifically to prevent water use "*contrary to a council notice restricting the use of water*". Refer Section 637 of the Act and Sections 159-160 of the Regulation.

The NSW Office of Water (previously Department of Water and Energy) provides best-practice guidelines for the operation of water supplies. There is a requirement for all Local Water Utilities to comply with these guidelines. Drought planning is a requirement of these guidelines.

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:

- 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
- 2.3.2.4 Implement Drought Management Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Draft Drought Water Restrictions Policy (ECM 57612829)

19 [CNR-CM] Detailed Design and Budget for Extension of the Tweed River Regional Museum Murwillumbah

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

In April 2011 Council resolved to support a single storey addition to the Tweed River Regional Museum at Murwillumbah and allocated a budget of \$2.6M to the project. Council subsequently adopted the allocation of \$250,000 from NSW Arts bringing the total available funds to \$2.85M.

In November 2011 Council supported the design concept developed by project architect Paul Berkemeier and resolved to proceed with submission of a development application which was subsequently approved on 28 March 2012.

The project architect and a team of expert sub-consultants have completed detailed design of renovations and new additions to the Museum. No significant variations to the concept design endorsed by Council have been made.

Application for a construction certificate will be made in October 2012.

Quantity Surveyors, Chris Bylett and Associates, are preparing a revised estimate of construction costs based on detailed design drawings. It is anticipated that the report will identify construction costs in excess of the current budget allocation. The Quantity Surveyor's report will not be completed until Friday 19 October.

RECOMMENDATION:

That Council considers a late report detailing revised construction costs for the Tweed River Regional Museum Murwillumbah and associated funding options.

REPORT:

Background

In April 2011 Council resolved to support a single storey addition to the Tweed River Regional Museum at Murwillumbah, allocated funding of \$2.6M to the project and endorsed the preparation of a development application.

In November 2011 Council supported the design concept developed by project architect, Paul Berkemeier, including the option to include a mezzanine level and resolved to proceed with submission of a Development Application.

The development application was approved on 28 March 2012.

Council's contribution to the project is funded by:

- Council loans 7 year plan \$1,300,000
- Sale of Wollumbin Street car park \$1,300,000

In June 2012 Council endorsed a request to Arts NSW to reallocate capital infrastructure grant funding for the Tweed River Regional Museum Tweed Heads toward redevelopment of the Murwillumbah site and the new museum collection storage facility.

The request to Arts NSW was successful and an additional \$250,000 has been allocated to the Murwillumbah project. The inclusion of a mezzanine level within the new museum wing was identified as a priority for these funds.

The allocation of Arts NSW funding brought the total available funds for Murwillumbah redevelopment to \$2,850,000.

Detailed design

Since March 2012 the project architect and a team of expert structural, mechanical, electrical and lighting, and hydraulic sub-consultants has completed detailed design related to renovations of the existing heritage building and construction of the new wing. The detailed design stage is now largely complete.

Revised estimate of construction costs

A revised estimate of construction costs based on detailed design drawings has been requested from Quantity Surveyors, Chris Bylett and Associates. It is anticipated that the revised cost will exceed the current budget allocation. The Quantity Survey's report is currently being prepared and will be tabled at the Council meeting on 25 October 2012.

OPTIONS:

Not applicable.

CONCLUSION:

Council notes progress regarding redevelopment of the Tweed River Regional Museum and the submission of a late report detailing revised project costs and associated budget implications.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

As per report.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.3.6.1 Provide conveniently placed well equipped community facilities
- 2.3.6.1.2 Development of Regional Museum facility at Murwillumbah

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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20 [CNR-CM] Establishment of an Annual Exhibition of Regional Higher School Certificate Student Art at the Tweed River Art Gallery

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

At the Council meeting of 17 July Council resolved to bring forward a report on the establishment of an annual exhibition at the Tweed River Art Gallery for Higher School Certificate (HSC) visual arts students to exhibit works from each of the high schools in the Shire. This report provides background information which examines the difficulties of the Gallery presenting exhibitions of this nature.

RECOMMENDATION:

That Council:

- 1. In consideration of the previous difficulties in presenting Higher School Certificate exhibitions at the Tweed River Art Gallery, does not proceed with an additional exhibition outcome representing high school visual arts students.**
- 2. Supports the Gallery's ongoing endeavours to engage with high school students and teachers throughout each school year by continuing to deliver a range of programs including Student Enrichment Days, Teacher and Student Exhibition Previews presented by leading artists and arts professionals, developing a variety of educational resources aligned with the curriculum and hosting the travelling exhibition *ARTEXPRESS* whenever possible.**

REPORT:

Background:

The Gallery hosted an annual exhibition of work by HSC students from local secondary schools from 1989-2009. In the years 1989-2003, the Gallery hosted approximately 10-15 individual exhibitions per year. The Gallery was then housed in the building now known as the Coolamon Centre, and had two to three staff members. During this time, the administration of the HSC exhibition was relatively informal. The Gallery did not have a system in place to determine the number of works or space allocated to individual schools.

Following the relocation of the Gallery to a new facility in Mistral Road in early 2004, the number of exhibitions hosted by the Gallery doubled to approximately 30-34 each year. This included seven to eight exhibition timeslots in the temporary exhibitions area, two of which were required to accommodate the size of the HSC exhibition. Over the years, there was an increase in the number of local schools offering Visual Art 10-12 and a relational increase in the number of students. In late 2003, the Gallery became aware of tension between teachers in regard to the number of art works each school delivered to the Gallery for display.

To ensure fairness, in 2004 the Gallery developed and implemented a system that allocated exhibition space to each school according to Visual Art 10-12 student numbers. This more formal arrangement required contact teachers, who were nominated by the schools, to liaise closely with the Gallery to provide student numbers and accurate information on each student and their art working to an organisational timeframe provided by the Gallery.

Up to nine local secondary schools were included in each HSC exhibition. Working with a diverse range of government and non-government schools, with both part-time and full-time contact teachers, it became increasingly difficult to correspond effectively with teachers and source information within the Gallery's very reasonable organisational deadlines.

In 2009, this was further exacerbated by the change of timeframes and location for marking HSC works and the timing of the announcement of works preselected for *ARTEXPRESS*. Both Gallery staff and teachers found it incredibly difficult to achieve a cohesive and considered exhibition of works.

After an increasing number of problems were encountered in arranging the 2009 HSC exhibition, a letter dated 7 March 2010, was sent to teachers nominated by nine local schools as the appropriate contact person for an exhibition of work from the 2010 HSC exhibition.

The letter requested teachers attend a meeting with Gallery staff on 30 March 2010 to discuss organisational issues and possible improvement to procedures. The Gallery received no response or advice from teachers in regard to their attendance (requested in last paragraph).

Disappointingly, only two teachers attended the meeting on 30 March 2010 representing Mt. St. Patrick College and Wollumbin High School. At that meeting these two dedicated teachers expressed their view that it would be more valuable for the Gallery to offer alternative types of support to teachers and students, such as enrichment workshops for senior students (particularly those in Year 10/11), teacher previews of exhibitions, the display of *ARTEXPRESS* and assistance to schools in regard to transport costs.

On 19 April 2010, after further discussions with the Board of Studies and NSW Department of Education, a letter was written to the Principals of nine local secondary schools to advise of the Gallery's deliberations and decision to cancel the 2010 HSC exhibition and annual exhibitions in the foreseeable future. Only one response was received to that letter, being a short email of thanks and appreciation for the Gallery's past efforts from a teacher at Tweed Valley College.

Given the imminent increase in Gallery programming and events connected to the Margaret Olley Art Centre, and the desired decrease in the number of annual exhibitions noted in the DRAFT Tweed River Art Gallery Business Plan 2012 - 2015, it is less likely that the Gallery will be able to allocate an annual "slot" for HSC exhibitions of works by Tweed Shire high school students.

Adjusting the timing of any HSC student exhibition to early in the year following the HSC may assist in regard to the clash with previous exhibitions and HSC marking. However, the best of the artworks, which are the artworks the schools would like to exhibit, will remain on tour with *ARTEXPRESS*. This scenario would also lead to other difficulties such as liaising with students who have pursued study or work in another geographical area, storage of works by schools and arranging the collection of works by students after the exhibition.

Given the number of proposals the Gallery receives from local artists and tertiary students of Visual Art who have seriously pursued Visual Art as a career, it is difficult to justify the ongoing allocation of limited exhibition space to secondary students. All of the suggestions made by teachers at the meeting on 30 March 2010 have been successfully implemented by the Gallery:

Since the appointment of the Education and Audience Development Officer, the Gallery now hosts regular Information and Exhibition Preview events for school teachers and students. Teachers are particularly appreciative of this service as it provides them with relevant curriculum-based information and usually includes direct access to guest artists and/or curators. Attendance at these Preview events also counts towards their Professional Development quota, as the Gallery issues Certificates of Attendance. Feedback from these sessions has been excellent.

In 2011, the Gallery was successful in seeking funding from ArtsNSW for ConnectEd Access funding due to the programming of exemplary high calibre Gallery-initiated and touring exhibitions. Previous funding levels from the NSW State Government had been much lower due to the peer panel's assessment of the Gallery's program as being too regionally-based. The ConnectEd program saw 669 students from 11 government schools visit the Gallery between 3/6/11 and 29/7/11. This number of students exceeded any previous annual student attendance at the Gallery.

Two Student Enrichment Days have been held in the last 12 months to complement major touring exhibitions from the Australian War Memorial and the National Portrait Gallery. Students and teachers found these opportunities invaluable experiences. Additional Student Enrichment Days are planned for 2012.

ARTEXPRESS was hosted by the Gallery in 2009 and attracted record numbers when compared to other NSW regional galleries. The Gallery has been able to secure this exhibition for display again in 2014.

As an alternative to establishing and hosting an annual exhibition of HSC artworks by students of Tweed Shire schools, the Gallery may be able to deliver a program to secondary students that details the professional necessity of their development and presentation of exhibition proposals within the wider art world.

Following is a copy of the letter dated 7 March 2010 from TRAG to regional high schools requesting meeting regarding HSC art exhibition:

«Contact_teacher»
«School_Name»
«Addr1»
«Town» «State» «PC»

7 March 2010

Dear «fname»

SUBJECT: IMPROVEMENT TO PROCEDURES FOR HSC EXHIBITION

The Tweed River Art Gallery remains committed to supporting local visual art students from all levels of education.

The Gallery has for many years hosted annual exhibitions of work by Higher School Certificate students from the Tweed area. In order to mount these exhibitions, the Gallery relies on the cooperation of and close collaboration with secondary teachers. These exhibitions would not be possible without the hard work and continued good humour of teachers.

As you know, the Gallery has a very full exhibition calendar. This busy schedule requires us to meet strict organisational timelines for the successful promotion, installation and demount of each exhibition.

The timeframe for the HSC exhibition in 2010 is Friday 19 November – Sunday 5 December. In line with procedures in previous years, in order to prepare for and install the exhibition, the Gallery will require Student Agreement forms to be submitted by 22 October and artworks to be delivered by close of business on Tuesday 9 November 2010.

The organisation of the 2009 HSC exhibition presented a number of challenges for both the Gallery and teachers. Last minute changes by the Board of Studies (BOS) to timeframes for HSC marking and the announcement of works preselected for *ARTEXPRESS*, coupled with the short timeframe available to install and display the exhibition (ie: after works have been assessed and before the end of the school year), led to significant uncertainty by the Gallery and teachers as to the viability of the exhibition. We are all very grateful to the dynamic Poppy Ottley for her action and liaison with the BOS in reassuring all involved with the show.

The Gallery also found it difficult when teachers from a number of schools, who had been nominated as Gallery contacts, were not working on a fulltime basis. This led to complications in communication, requiring us to send multiple copies of documents and numerous reminders regarding basic organisational requirements.

Given these difficulties, the Gallery would like to convene a meeting with secondary teachers at the Gallery on **Tuesday 30 March at 4.30pm** to discuss improvements to the process to ensure the ongoing viability and success of the annual HSC exhibition. I hope that you are able to attend and offer some suggestions for improvements in support of this endeavour.

I would appreciate you contacting Gail McDermott by phone on 02 6670 2790 or email at gmcdermott@tweed.nsw.gov.au to advise if you are able to attend.

Looking forward to seeing you.

Susi Muddiman
Director
Tweed River Art Gallery

Following is a copy of the letter dated 19 April 2010 from TRAG to school principals regarding cancellation of HSC art exhibition:

Principal
School name
School address1
School address2

19 April 2010

Dear Principal name

**SUBJECT: IMPORTANT INFORMATION REGARDING THE
HSC EXHIBITION AT TWEED RIVER ART GALLERY**

As you are aware, the Tweed River Art Gallery has for many years hosted annual exhibitions of work by Higher School Certificate students from the Tweed area. In previous years, the Gallery has worked in close collaboration with secondary teachers to mount these exhibitions within a tight schedule during a busy period at the end of the school year.

The organisation of the 2009 HSC exhibition presented a number of new challenges for both the Gallery and teachers. Changes by the Board of Studies (BOS) to timeframes for HSC examinations and the announcement of works preselected for ARTEXPRESS, coupled with the increasing amount of work sent to Sydney for corporate marking, made it incredibly difficult to organise the exhibition within the short timeframe available (ie: after works have been cleared for release by the BOS and before the end of the school year).

Given these difficulties, the Gallery invited secondary teachers to attend a meeting on Tuesday 30 March 2010 to discuss the ongoing viability of the annual HSC exhibition. Unfortunately, the Gallery only received a response from two dedicated teachers from the Murwillumbah area. That said, this small meeting was able to clarify the issues faced by both the Gallery and secondary teachers.

In an effort to resolve the problems inherent in arranging an exhibition in the final stages of the school year, discussions were then held with representatives from the BOS and the NSW Department of Education and Training seeking clarification of 2010 timeframes. Unfortunately, the outcome of these discussions was not a positive one, with no apparent resolution to our conflicting schedules.

I sincerely hope that you appreciate the efforts of all Gallery staff to find a solution to these problems. However, it is with regret that I advise that the organisation and display of HSC works at Tweed River Art Gallery is no longer possible. Unfortunately, I have had to make the decision to cancel the exhibition for 2010 and into the foreseeable future.

I would like to thank all of the teachers involved in past exhibitions and express my sincere appreciation for their hard work and dedication for the benefit of students. I hope that your students are able to take advantage of our ongoing program of stimulating contemporary exhibitions and events in the future.

I would appreciate you passing this information on to your Head Teacher, Creative and Performing Arts and their staff. If you wish to discuss this matter further, please contact me at the Gallery during business hours on telephone number 02 6670 2790.

Yours sincerely

Susi Muddiman
Director
Tweed River Art Gallery

OPTIONS:

1. Council acknowledges the many difficulties involved in staging an annual exhibition of Higher School Certificate artworks by each high school in the Tweed Shire and supports the Tweed River Art Gallery's current and ongoing plan for addressing art education, which is endorsed by Arts NSW.
2. Council resolves that the Tweed River Art Gallery instigates an annual exhibition of for Higher School Certificate students of the Tweed Shire region.
3. Council recommends that the Tweed River Art Gallery deliver a professional development program aimed at the post-high school arts environment for graduating visual art secondary school students of the region.

CONCLUSION:

It is recommended that Council considers the background information concerning this issue.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 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
- 2.1.3.4.3 Develop and maintain Education/Audience Development programs for the enhancement of the Tweed River Art Gallery's role in the community

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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21 [CNR-CM] Clarrie Hall Dam Spillway Flood Safety Upgrade - Status Report

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

Clarrie Hall Dam was constructed in the early 1980s in accordance with the design standards applicable at the time. The NSW Dam Safety Committee (DSC), responsible for ensuring the ongoing safety of all registered dams in NSW, has requested Council upgrade the dam spillway to accommodate more recent design requirements, and in particular the requirement for it to safely pass a Probable Maximum Flood (PMF).

Works on the Clarrie Hall Dam Spillway Flood Safety Upgrade project are progressing to schedule.

A number of future critical actions are required for successful completion of the Clarrie Hall Dam Spillway Flood Safety Upgrade project.

This report provides an update on the status of the project.

RECOMMENDATION:

That Council:

- 1. Notes the status of, and future critical actions and associated dates to be undertaken to complete, the Clarrie Hall Dam Spillway Flood Safety Upgrade project.**
- 2. Officers bring forward a report to the January 2013 Council Meeting for the awarding of the main project contract.**

REPORT:

Council resolved at its meeting of 16 November 2010 to progress work to upgrade the spillway on the existing Clarrie Hall Dam (CHD) to meet the requirements of the NSW Dam Safety Committee (DSC). The timing of these works is independent of the need to augment the Tweed's water supplies.

This report provides an update on the status of the project.

Background

Clarrie Hall Dam was constructed in the early 1980s in accordance with the design standards applicable at the time. The DSC, responsible for ensuring the ongoing safety of all registered dams in NSW, has requested Council upgrade the dam spillway to accommodate more recent design requirements, and in particular the requirement for it to safely pass a Probable Maximum Flood (PMF).

Works completed to date

Works are progressing to schedule. Considerable pre-construction work has been completed and most approvals have been now been gained.

2011

- Council resolved to engaged NSW Water Solutions to carry out the concept design, environmental assessment and detailed design (Feb 2011)
- Concept design options developed by consultants NSW Water Solutions
- Review of Environmental Factors (REF) completed by consultants
- Public exhibition of REF
- Determination of REF and approval conditions set

2012

- Expression of Interest to shortlist potential contractors completed
- Council resolved to short-list four suitably qualified construction contractors (May 2012)
- Early Tenderer Involvement process with four short-listed tenderers completed
- Detailed design completed by consultants NSW Water Solutions
- In principal approval of detailed design received from DSC
- In principal s60 LG Act approval received from NSW Office of Water (NOW)
- Confirmation of 20% funding available from NOW
- Short-listed tenderers invited to tender

Remaining works

Remaining pre-construction works for 2012 will focus on receiving and reviewing tenders, and obtaining remaining approvals.

Construction works are critically scheduled for the 2013 dry period. In order to meet those dates, it will be critical for the construction contract to be awarded by the end of February 2013.

Critical scheduled dates are shown below, including the need to obtain Council approval in January 2013.

Call Construction Tenders	26 Sep 2012
Close Construction Tenders	21 Nov 2012
Officers review and select Preferred Tenderer	19 Dec 2012
Council approval to award contract to preferred Tenderer	22 Jan 2013
Office of Water Stage 3 funding approval to award contract	14 Feb 2013
Issue Letter of Award	21 Feb 2013
Construction begins on site	7 Mar 2013
Completion of construction	April 2014

OPTIONS:

Not Applicable.

CONCLUSION:

Works on the Clarrie Hall Dam Spillway Flood Safety Upgrade project are progressing to schedule.

A number of future critical actions are required for successful completion of the Clarrie Hall Dam Spillway Flood Safety Upgrade project.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

The project is funded in the Long Term Financial Plan and included in this year's budget. The NSW State Government has confirmed its commitment to fund 20% of the project cost.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.7 Deliver Capital Works Program

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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22 [CNR-CM] Tweed River Art Gallery - Margaret Olley Art Centre

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

Budget estimates have been ongoing for the construction of the Margaret Olley Art Centre Tweed River Art Gallery extension.

This preliminary report summarises those budgets and presents funding sources for Council approval.

A complete breakdown of the funding sources and estimates for construction will be detailed in the confidential attachment of the late report.

RECOMMENDATION:

That Council considers a late report detailing funding sources to allow the Margaret Olley Art Centre extension of the Tweed River Art Gallery to progress to tender stage.

REPORT:

Budget estimates are being prepared and finalised with a complete report to be tabled at the Council meeting on 25 October 2012.

The budget estimate will include a confidential attachment which will outline the complete budget breakdown of the project and funding sources presently committed for the project.

Council has engaged a certified quantity surveyor to verify budgets prepared by Council officers. This quantity surveyor has been engaged to comply with the federal funding arrangements.

CONCLUSION:

Not applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Budget value and funding sources for the project is yet to be finalised and will be forwarded as a late report for Council to consider.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.3.6.1 Provide conveniently placed well equipped community facilities
- 2.3.6.1.3 Maintain and improve the Tweed River Art Gallery's physical and built environment through the provision of additional educational and family friendly facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

23 [CNR-CM] Renewable Energy Think Tank

SUBMITTED BY: Natural Resource Management



Civic Leadership



Strengthening the Economy

SUMMARY OF REPORT:

Council staged a Renewable Energy Think Tank at its Sustainable Living Centre in Chinderah on Tuesday 24 July 2012, to identify viable future opportunities for renewable energy projects in the Tweed.

The forum facilitated focussed discussion between key Council staff in natural resource management and waste management, and community representatives with demonstrated experience and knowledge of renewable energy and Tweed Shire.

Discussions explored renewable energy options based on the natural and resource features of Tweed Shire, state-of-the-art technology and practices and the expertise of Think Tank participants. These options were based on the roles and responsibilities of Council and its likely available resources.

The Think Tank discussions reached preliminary levels only within the timeframe and would benefit from another workshop to further explore some of the proposed actions.

RECOMMENDATION:

That Council:

- 1. Holds a second Renewable Energy Think Tank with the same participants as the July 2012 meeting to further explore opportunities for Council involvement in renewable energy projects.**
- 2. Considers options for small-scale local projects to showcase and promote renewable energy production.**

REPORT:

Council staged a Renewable Energy Think Tank at its Sustainable Living Centre in Chinderah on Tuesday 24 July 2012, to identify viable future opportunities for renewable energy projects in the Tweed.

The forum facilitated focussed discussion between key Council staff in natural resource management and waste management, and community representatives with demonstrated experience and knowledge of renewable energy and Tweed Shire.

Discussions explored renewable energy options based on the natural and resource features of Tweed Shire, state-of-the-art technology and practices and the expertise of Think Tank participants. These options were based on the roles and responsibilities of Council and its likely available resources.

Background

Council's meeting on 17 April 2012 (Item 19, Green Infrastructure – Renewable Energy) considered a staff report on green infrastructure projects for local renewable energy options for Tweed Shire, to prepare for future Regional Development Australia funding applications.

The meeting subsequently resolved:

“To invite expressions of interest for the community to participate in a ‘Think Tank’ with Council to further the potential for renewable energy and energy efficient projects”.

It was initially planned to accept five community members on the Think Tank panel, selected for their experience in renewable energy and energy efficient projects. Councillors were also invited to participate.

Community representatives

The high calibre of nominees and their breadth of experience prompted a decision to expand the panel of community representatives to seven members, chosen for their knowledge in a wide variety of areas:

- Physicist and Tweed Climate Action Network founder Paul Taylor
- Manufacturing industry member Peter Robson
- Energy efficiency company director Nathan Gudsell
- Caldera Environment Centre secretary Sam Dawson
- Environmental Science Associate Professor Daryl McPhee
- Electrical engineer Dr John Griffin
- Renewable energy infrastructure manufacturer Tom Andrew

These representatives' duties, outlined in the Expressions of Interest document, included being available for input from the broader community. Other members of the community were invited to contact the community panel members, so the sentiments and aspirations of the wider community could be presented to the forum.

Invited participants

The seven community panel members were joined by four invited participants, who were chosen because of their experience in similar renewable energy forums and strategies in the Northern Rivers region:

- **Paul Cruickshank, the Renewable Energy Coordinator at the NSW Department of Environment, Climate Change and Water and Renewable Energy Coordinator at the NSW Office of Environment and Heritage.**
- Environmental Sustainability Officer Kirsty Howton from Southern Cross University and Sustain Northern Rivers, an alliance of 10 peak regional organisations to communicate, consult and collaborate for action on climate change.
- Robyn Fitzroy, Manager of Regional Development/Sustainability with Regional Development Australia - Northern Rivers.
- James Sturch of the North Coast Energy Entity, which was created to develop a business model for renewable energy financing in the Northern Rivers.

Think Tank discussions

The forum began with a summary of Council's existing projects in renewable energy:

- Extraction and utilisation of landfill gas, Stott's Creek Landfill
Landfill Management Services Pty Ltd (LMS) harvests landfill gas from Stott's Creek Landfill and reduces the environmental impact of the gas by flaring or producing electricity by combusting the gas through a renewable energy facility.

The project provides environmental benefits by reducing landfill gas (and therefore carbon equivalents) emissions from the operating landfill, operational benefits by reducing odour, and future economic benefits by reducing Council's liabilities under clean energy legislation (carbon tax).

- Tweed Shire Solar Community program
More than 400 1.5-kilowatt systems were installed on domestic dwellings in Tweed Shire as part of the Solar Community program, along with the donation of 20 two-kilowatt solar photovoltaic systems, which were installed on community-managed facilities such as community halls, pre-schools and sporting clubhouses.
- Condong Mill Co-generation Facility
The co-generation facility was designed to export electricity to the NSW grid year round as renewable energy and provide process steam and electricity to the sugar mill during the sugar cane 'crush season' from June to December. The facility is capable of producing up to 30 megawatts (MW) of electricity for use at the sugar mill and for export to the regional grid.

The plant is operating but is restricted to running for six months of the year, during the cane crush season, because the scheme is not financially viable to date and the companies who own and operate the co-generation plant have been placed into voluntary administration.

Each of the invited community representatives and community panel members then had an allocated time to present an introduction and summary of their experience and ideas.

Key issues to emerge from the presentations included:

- Better use of biomass, including cogeneration plants.
- Opportunities for government assistance, including funding.
- Battery storage of electricity generate by renewable energy.
- Local government as an electricity retailer.
- Public education.
- Hydro to generate and store energy.
- Tweed Shire as a 'clean energy hub'.
- Greater assistance for private industry to generate renewable energy - remove barriers.
- Solar-powered street lights.

(See the attached Renewable Energy Think Tank Notes for details of the presentations and discussions).

The Think Tank concluded by discussing the key issue of biomass energy, before the community representatives were invited to cite Council's primary roles in fostering renewable energy for Tweed Shire. These included:

- More solar panels on Council-owned structures.
- More community education and awareness.
- Local government as an electricity retailer.
- Remove barriers for businesses to implement renewable energy initiatives.

(Further detail is also included in the attached Renewable Energy Think Tank Notes).

Further action

The Think Tank discussions reached preliminary levels only within the timeframe and would benefit from another workshop to further explore some of the proposed actions.

Council had previously considered options for renewable, or green, energy and some of these options may be worth pursuing further. The Think Tank process may also reveal some small scale projects that are in the interest of Council to pursue.

OPTIONS:

1. That Council notes this report and there is no further action.
2. That Council holds a second Renewable Energy Think Tank with the same participants as the July 2012 meeting to further explore opportunities for Council involvement in renewable energy projects.
3. That Council considers options for small-scale local projects to showcase and promote renewable energy production.

CONCLUSION:

Renewable energy options identified by the Think Tank could be adopted by Council for future consideration and advocacy as opportunities arise. As noted, these options need to be further considered and developed into projects. The viable options would be based on the roles and responsibilities of Council and its likely available resources.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Costs to hold a second Think Tank are predominantly staff time. Any options or projects to be further investigated would require consideration of budget allocation.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.2 Create a sustainable, social and environmentally aware community through education
- 1.1.2.3 Council promotes a carbon reduced and ecologically sustainable economy
- 3 Strengthening the Economy
- 3.3.2 Facilitate Government Funded Infrastructure
- 3.3.2.1 Support infrastructure improvements that benefit the Tweed Economy
- 3.3.2.1.1 Identify infrastructure improvements and deficiencies that affect economic development

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Think Tank Meeting Notes 24 July 2012. (ECM 57599977)

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24 [CNR-CM] Sea Level Rise Benchmarks

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

In June 2012 Council commissioned BMT WBM to undertake a review of the Tweed Coastline Hazard Definition Study. This study will provide updated Coastline Hazard Lines for Tweed Shire and provide an updated processes study for Kingscliff Beach.

Subsequent to the commissioning of this study the NSW Government announced its intention to introduce a Bill into Parliament to amend the *Coastal Protection Act 1979 No. 13* to, *inter alia*, remove the sea level rise benchmarks as Government policy.

It is proposed that the sea level rise benchmarks provided by the NSW Government in 2009 continue to be used for the purpose of coastal zone planning in Tweed Shire including for the current review of coastline hazards.

RECOMMENDATION:

That Council:

- 1. For the purposes of undertaking the Tweed Coastline Hazard Study 2012, endorses the sea level rise planning benchmarks that represent an increase on 1990 sea levels of 40cm by 2050 and 90cm by 2100, as provided in the *NSW Sea Level Rise Policy Statement*, NSW Government, 2009.**
- 2. Supports the motion put forward by Port Macquarie - Hastings Council to the Local Government Association Conference in Dubbo 28 to 30 October as follows:**

In light of the evolving understanding of the complex issues surrounding future sea levels, councils note that the report *Assessment of the science behind the NSW Government's sea level rise planning benchmarks (NSW Chief Scientist and Engineer, April 2012)* confirms that "the way the science has been used to date to determine benchmarks for sea level rise in NSW is adequate". A consistent framework in which to undertake planning in the coastal zone is required. Therefore, councils call for the NSW Government to provide a scientifically based sea level rise benchmark for use in planning for the coastal zone.

REPORT:

History

In accordance with the NSW Government's Coastline Management Manual, Council adopted the *Tweed Coastline Hazard Definition Study*, developed by WBM Oceanics, in 2001. Hazard lines were defined for present day (2000), 2050 and 2100 scenarios. This 2001 study used sea level rise (SLR) projections (relative to 1990) of 0.2m for 2050 and 0.5m for 2100, based on mid-range Intergovernmental Panel on Climate Change (IPCC) estimates from the 1996 working group report.

The NSW Government released the *Sea Level Rise Policy Statement* in 2009 which specifies SLR planning benchmarks of an increase above 1990 mean sea levels of 0.4m by 2050 and 0.9m by 2100, and in accordance with that statement Council commissioned the Water Research Laboratory (WRL) to update the 2001 Tweed hazard lines.

The updated Tweed coastal erosion hazard definition lines were finalised and adopted by Council at the meeting of 15 November 2011, in accordance with the NSW Government Sea Level Rise benchmarks.

Minimum floor levels in flood liable areas as specified in Council adopted Development Control Plan A3-Flood Liable Lands, are based on flood levels using the government's benchmarks for Sea Level Rise.

The NSW Department of Planning also released the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* in August 2010. This Guideline adopted the above benchmarks and specifies how these are to be used to develop coastal erosion risk areas for strategic and statutory land-use planning.

Current considerations

In June Council commissioned BMT WBM to undertake a review of the Tweed Coastline Hazard Definition Study. This study will provide updated Coastline Hazard Lines for Tweed Shire and provide an updated processes study for Kingscliff Beach.

Subsequent to the commissioning of this study the NSW Government announced its intention to introduce a Bill into Parliament to amend the *Coastal Protection Act 1979 No. 13* to, *inter alia*, remove the sea level rise benchmarks as Government policy.

It is proposed that the sea level rise benchmarks provided by the NSW Government in 2009 continue to be used for the purpose of coastal zone planning in Tweed Shire including for the current review of coastline hazards.

Motion to Local Government Association Conference, 28 to 30 October

Reproduced below is a Motion from Port Macquarie - Hastings Council to be considered at the Local Government Association Conference in Dubbo 28 to 30 October. This provides further background and for consideration of support by Tweed Shire Council at the Conference.

"Proposed Motion

In light of the evolving understanding of the complex issues surrounding future sea levels, councils note that the report Assessment of the science behind the NSW Government's sea level rise planning benchmarks (NSW Chief Scientist and Engineer, April 2012) confirms that "the way the science has been used to date to determine benchmarks for sea level rise in NSW is adequate". A consistent framework in which to undertake planning in the coastal zone is required. Therefore, councils call for the NSW Government to provide a scientifically based sea level rise benchmark for use in planning for the coastal zone.

Background

In September 2012, the government released the first stage of its reform of the coastal management framework in NSW. The reform included a change in policy position that abandons the 2009 NSW Sea Level Rise Policy Statement that specified sea level rise planning benchmarks that represent an increase on 1990 sea levels of 40cm by 2050 and 90cm by 2100. The benchmarks were developed to a consistent benchmark upon which to base consideration of sea level rise in land-use planning and coastal management decision making and provided a valuable policy position for local government in NSW. The benchmarks were consistent with other state government guidelines for taking account of the impact of climate change in floodplain management planning.

It is widely acknowledged by jurisdictions across the world that land-use planning and the management of the coastal zone needs to consider the impact of rising sea levels. In both Australia and internationally, courts have upheld the need for the consideration of the impact of climate change, including sea level rise, in development and planning decisions. There is also a considerable body of evidence that demonstrates that councils have a duty of care when carrying out planning functions to consider known risks and to disclose information about those risks where appropriate.

The NSW government position that the previous policy was heavy handed and did not provide local councils and communities with the flexibility to plan for regional conditions cannot be supported. While it is acknowledged that there are inherent uncertainties associated with long-term forecasting of climatic and environmental trends, this uncertainty cannot reasonably be used to justify the abandonment of a precautionary policy approach that is based on the most appropriate scientific evidence of the time. In fact, the uncertainties associated with sea level rise predictions are likely to outweigh the magnitude of any regional differences in sea level rise forecasting to the extent that a consistent policy approach for NSW has considerably more benefit to local councils and communities than the purported flexible approach."

OPTIONS:

1. That Council endorses the sea level rise planning benchmarks that represent an increase on 1990 sea levels of 40cm by 2050 and 90cm by 2100, as provided in the NSW Sea Level Rise Policy Statement, NSW Government, 2009 for the purposes of undertaking the Tweed Coastline Hazard Study 2012.
2. That Council seeks independent scientific advice on regionally appropriate sea level rise benchmarks noting significant cost implications and delays to the current coastal hazard identification project.
3. That Council does not update the adopted (15 November 2011) Immediate, 2050 and 2100 coastal hazard lines.

CONCLUSION:

To ensure consistency with Tweed Shire's current planning framework including the Coastal Hazards - Tweed Development Control Plan Section B25, A3 and the adopted Tweed Shire Coastline Hazard Lines 2010 it is recommended that the Sea Level Rise benchmarks provided by the NSW Government in 2009 continue to be used for the purpose of coastal zone planning in Tweed Shire until specific regional benchmarks are devised by the State Government.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.
Tweed Shire Coastline Management Plan 2005.

b. Budget/Long Term Financial Plan:

Option 2 would require additional funds to resource.

c. Legal:

Legal implications may ensue from any future development affected by coastal erosion where assessment of the adequacy of the suitability of the development relative to the predicted impact of coastal erosion has not been taken into account. The financial implication of any successful litigation would be significant.

d. Communication/Engagement:

INFORM - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.4 Prepare, review and implement coastal zone and catchment management plans
- 4.1.2.4.1 Review and implementation of Tweed Coastline Coastal Zone Management Plan
- and
- 4 Caring for the Environment
- 4.4 Manage the Tweed coastline to ensure a balance between utilisation and conservation
- 4.4.1 Recognise and accommodate natural processes and climate change
- 4.4.1.2 Identify and manage coastal areas with erosion vulnerability
- 4.4.1.2.1 Kingscliff foreshore protection

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

25 [CNR-CM] Integrated Sustainable Floodplain Farming - 2012-2013 Offer of Contract

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

The Northern Rivers Catchment Management Authority has offered Council a \$55,000 contract to undertake floodplain management works on the Tweed floodplain. This project will facilitate through on-ground works and extension outcomes, the active management of acid sulfate soils, flood-gated drains and floodplains as well as overall land management practices to implement soil health (reduce soil acidification and improve soil carbon).

RECOMMENDATION:

That Council:

- 1. Accepts the Northern Rivers Catchment Management Authority Sustainable Floodplain Farming: Tweed - Contract No. NR-IS 12-13-AT2 of \$55,000 as part of Sustainable Agriculture Program.**
- 2. Votes the income and expenditure.**

REPORT:

The Northern Rivers Catchment Management Authority has been funding floodplain projects and Council has been successful in securing a number of grants. The next round of funding is offering Council a \$55,000 contract to continue this work. The project outcomes are:

- Condition of native vegetation improved
- Farmers assisted to increase their uptake of sustainable farm and land management practices (soil health/ soil carbon and Acid Sulfate Soil Best Management Practices) that deliver improved ecosystem services
- Knowledge, skills and engagement of land managers and farmers in managing our natural resources and environment

Following is a copy of the correspondence from Northern Rivers Catchment Management Authority:



Catchment Management Authority Northern Rivers

Mr Sebastin Garcia-Cueanca
Tweed Shire Council
PO BOX 816
MURWILLUMBAH
NSW 2484

28 September 2012

Dear Sebastin,

Offer of Contract **CONTRACT NO.:** NR-IS-12-13-AT2A
CONTRACT NAME: Integrated sustainable floodplain farming -
Tweed

The Northern Rivers Catchment Management Authority (NRCMA) is pleased to offer you the opportunity to deliver the above Project.

Enclosed are two original copies of the Project Contract. Please ensure that you have read and understood all terms and conditions of the Contract.

To ensure the health and safety of workers and to meet the requirements of the new *Work Health and Safety Act 2011*, the NRCMA, its contractors and landholders must demonstrate commitment to safe work practices. A Work Method Statement outlining safe work practices for delivery of natural resource management activities is attached and must be implemented by all contractors and landholders.

To accept this Project offer, you must sign the two copies of both the Contract (page 2) and the Work Method Statement. Return both copies of the Contract and one copy of the Work Method Statement to the address below within 14 days of the date of this letter. This offer may be rescinded if we do not receive these signed documents within this timeframe.

Upon receipt of the signed Contracts, the NRCMA will sign and return a final copy of the Contract for your records. A purchase order will be sent to you detailing when your payments are due. You must include the purchase order number on each of your invoices to allow processing.

It is important that you carefully plan your Project to ensure successful completion of all tasks by the completion date. Project extensions are not viewed favourably by the NRCMA and will only be considered in serious extenuating circumstances. If at any time you become aware of issues that may delay delivery of your Project, it is your responsibility to advise your NRCMA Contract Contact as soon as possible.

The NRCMA looks forward to working with you on this Project. If you require any further information, please do not hesitate to contact Simon Proust on 66530111 or simon.proust@cma.nsw.gov.au.

Yours sincerely

Simon Proust
On behalf of:
Ian Simpson
Acting General Manager

CONTRACTS
FLOODPLAIN MANAGEMENT
RURAL CATCHMENT MANAGEMENT

TWEED SHIRE COUNCIL
FILE No: AGRICULTURE-SUSTAINABLE
DOC. No:
REC'D: - 2 OCT 2012
ASSIGNED TO: GARCIA-CUEANCA, S
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

OPTIONS:

1. Council accepts the grant offer of \$55,000 from the Northern Rivers Catchment Management Authority.
2. Council does not accept the grant.

CONCLUSION:

This project will further contribute to research and on ground works taking place in the fields of Acid Sulfate Soils, Soil Carbon and Sustainable agriculture in the region.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Council has committed to contribute \$22,000 to this project. Council's contribution is available through the Tweed River Estuary Program budget allocated to Acid Sulfate Soil management and Sustainable Agriculture.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.5 Improve the environmental capacity of the Tweed agriculture lands
- 4.5.2 Promote and encourage partnerships between farming communities, governments and research institutions through consultation and participation
- 4.5.2.3 Grant funded acid sulfate soil floodplain management projects
- 4.5.2.3.2 Pursue and finalise delivery of state funded floodplain management projects: Catchment Management Authority 'Soil Health' on Coastal floodplain

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

26 [CNR-CM] Koala Connections Project Implementation

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council resolved at the meeting of 19 April 2011 to accept a NSW Environmental Trust Grant of \$99,844 awarded to Tweed Shire Council for the project Koala Connections. In accordance with the grant application, a further \$40,000 over two years will be contributed to the project from Council's Biodiversity Grant Program and \$20,000 over two years from Council's Estuary Management Program.

The purpose of this report is to seek Council's approval to fund five private landowners, as listed in the report, in accordance with the provisions of the Grant.

RECOMMENDATION:

That Council approves the proposed Koala Connections Project funding to assist private landowners to undertake the projects listed in the table contained within the report.

REPORT:

Council resolved at the meeting of 19 April 2011 to accept a NSW Environmental Trust grant of \$99,844 awarded to Tweed Shire Council for the project Koala Connections. In accordance with the grant application, a further \$40,000 over two years will be contributed to the project from Council's Biodiversity Grant Program and \$20,000 over two years from Council's Estuary Management Program.

The project will implement critical on-ground and educational actions arising from the Tweed Coast Koala Habitat Study (TCKHS) and the Tweed Coast Comprehensive Koala Plan of Management (TCKPOM), which are currently in preparation. Specific actions will include:

- Restoration of existing Koala habitat.
- Connecting fragmented habitats through revegetation on private and public land.
- Installation of strategic fencing to restrict stock and prevent Koala road strikes.
- Connecting landholders, community groups and individuals through publication of a brochure, educational media releases, training workshops and community tree planting working bees.

Together, these actions will help to provide a secure future for Koalas on the Tweed Coast and foster a sense of stewardship with landholders and the broader community.

The purpose of this report is to seek Council's approval to fund five private landowners, as listed below, in accordance with the provisions of the Grant.

The proposed works involve the provision of services by professional bushland regenerators to undertake primary weed control, tree planting and assist landholders to more effectively manage environmental weeds and ensure survival of the trees.

Name	Area	Details	Cost Estimate (\$ excl. GST)
Kraemer	Duranbah	Bush regenerator for 12 pers.days for site preparation and planting Supply 500 Koala food trees and guards Bush regenerator for 12 person days over 2 years for follow-up weed control	11,140
Mactaggart	Duranbah	Bush regenerator for 12 pers.days for site preparation and planting Supply 500 Koala food trees and guards Bush regenerator for 12 person days over 2 years for follow-up weed control	11,140
Anderson	Duranbah	Bush regenerator for 7 pers.days for site preparation and planting Bush regenerator for 45 days for weed control of 5.5ha of existing forest Supply 500 Koala food trees and guards Bush regenerator for 28 person days over 1 year for follow-up weed control	31,060

Barnsley	Round Mountain	Bush regenerator for 13 pers.days for site preparation and planting Supply 600 Koala food trees and guards	11,900
Core	Round Mountain	Bush regenerator for 15 person days over 1 year for follow-up weed control Bush regenerator for 9 pers.days for site preparation and planting Supply 200 Koala food trees and guards Bush regenerator for 9 person days over 1 year for follow-up weed control Stock exclusion fencing material	7,580
TOTAL			72,820

OPTIONS:

1. That Council approves the proposed funding to assist private landowners to undertake the projects listed in the table contained within the report.
2. That Council does not approve the proposed funding to assist private landowners to undertake the projects listed in the table contained within the report.

CONCLUSION:

The proposed works will significantly contribute to the viability of the Duranbah-Eviron and the Round Mountain koala linkages identified in the Tweed Coast Koala Habitat Study 2011.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The total budget for Koala Connections is \$159,844, over a two year period comprising NSW Environmental Trust Grant 2010/SL/0070 - Koala Connections budget of \$99,844, which, in terms of the grant conditions, requires additional funding from Council comprising of a further \$40,000 over two years from Council's Biodiversity Grant Program and \$20,000 over two years from Council's Estuary Management Program.

This report proposes the allocation of \$72,820 from this overall Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.1 Promote the protection of native vegetation and wildlife habitat of high conservation value, social or cultural significance in Tweed Shire

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

27 [CNR-CM] Biodiversity Grant Program Implementation

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

On 27 January 2009 Council unanimously approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire.

The purpose of this report is to seek Council's approval to fund six private landowners, as listed in the report, in accordance with the provisions of the Biodiversity Grant Program.

RECOMMENDATION:

That Council approves the proposed Biodiversity Grants to assist private landowners to undertake the projects listed in the table contained within the report.

REPORT:

On 27 January 2009 Council approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire. This initiative represents an important component of Council's Biodiversity Program.

The Biodiversity Grant Program supports projects that contribute to the following ecological priorities within Tweed Shire:

- Rehabilitation of degraded habitats
- Restoration of previously cleared areas
- Threatened species recovery
- Management of threatening processes
- Monitoring and research

Applications under the program can be made throughout the year and are assessed using the following criteria:

- Ecological benefits (eg. ecological status, multiple ecological priorities, contribution to State and regional biodiversity targets etc);
- Value for money (including in kind contributions, external funding);
- Technical capability and applicant track record;
- Site security (preference will be given secure sites eg. conservation covenants, Environmental Protection zones etc);
- Ongoing maintenance requirements;
- Spread of projects across ecological priorities and the Shire (including projects funded from other sources).

The purpose of this report is to seek Council's approval to fund the six private landowners visited since the May 2012 Council meeting as listed below, in accordance with the provisions of the Biodiversity Grant Program.

The proposed grants involve the provision of services by professional bushland regenerators to assist landholders to more effectively manage environmental weeds, protect native vegetation and improve wildlife habitat.

Quick	Brays Creek	\$4600	Site Action Plan preparation and partial implementation neighbouring National Park.
Munz & Mayer	Limpinwood	\$2760	Site Action Plan preparation and partial implementation in riparian zone.
Masters	Limpinwood	\$3600	Weed control in Wildlife corridor on riparian zone.
Harris	Tomewin	\$720	Control of Madeira vine on road-side reserve boundary.
Chromy	Mount Burrell	\$1440	Weed control on steep slope.
Middleton	Tomewin	\$3880	Weed control and landholder training.

OPTIONS:

1. That Council approves the proposed Biodiversity Grants to assist private landowners to undertake the projects listed in the table contained within the report.
2. That Council does not approve the proposed Biodiversity Grants to assist private landowners to undertake the projects listed in the table contained within the report.

CONCLUSION:

This program is consistent with the adopted Tweed Vegetation Management Strategy 2004 and the Council resolution of 27 January 2009 which established the Biodiversity Grant Program.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

\$13,120 from existing Biodiversity Program budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.2 Encourage and promote rehabilitation and management of native vegetation and wildlife habitat in Tweed Shire

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

28 [EO-CM] Hillcrest Avenue, Tweed Heads South - Road Closure Application

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

A joint application for road closure and purchase has been received for the unnamed road reserve running between Lot 6 and Lot 7 Section 19 in DP 28266 - 12 and 14 Hillcrest Avenue, Tweed Heads South.

The road reserve proposed to be closed between Lots 6 and 7 is on a very steep gradient and heavily vegetated in the area closest to Hillcrest Avenue. Due to the steep gradient from Hillcrest Avenue it would not be foreseeable that construction would be possible between it and Philp Parade at the western end.

There is a section of road within Hillcrest Avenue also being sought by the owner of Lot 7 wherein his driveway access lies. The grade from the road edge to the site boundary is extremely steep and so a driveway with an angled alignment was required to be constructed to allow for a safe ingress/egress, and in turn has encroached onto the road reserve. The driveway was constructed over the road reserve with approval from Council in 1998 and the property owner was granted a licence agreement for driveway and access which has now expired.

This application complies with Council's policy on "Road Closures and Private Purchase" as noted in the body of this report.

The road closure would not impact in any way on other properties within the immediate vicinity, nor would it interfere with the pedestrian access currently available along the front boundary of the properties, or on the existing roadway.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have a detrimental impact.

RECOMMENDATION:

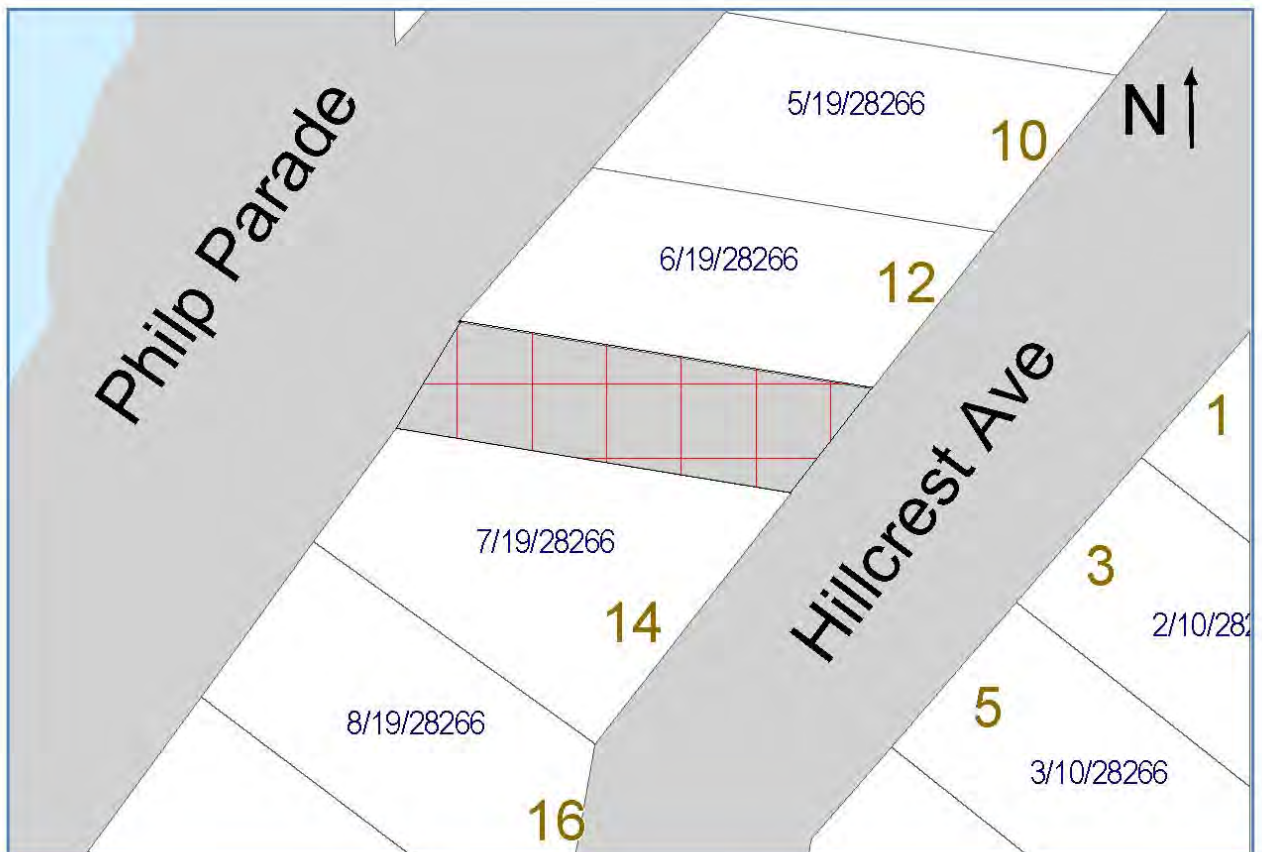
That:

- 1. Council approves the closure of part of the road reserve between Lots 6 and 7 Section 19 in DP 28266, 12-14 Hillcrest Avenue, Tweed Heads South;**
- 2. Council approves the closure of part of the road reserve known as Hillcrest Avenue adjacent to Lot 7 Section 19 in DP 28266;**
- 3. The applicants bear all survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
- 4. The title of the closed road be consolidated with the adjacent land;**
- 5. Easements be created over public authority reticulation services, if any; and**
- 6. All necessary documentation be executed under Common Seal of Council.**

REPORT:

A joint application for road closure and purchase has been received for the unnamed road reserve running between Lot 6 and Lot 7 Section 19 in DP 28266 - 12 and 14 Hillcrest Avenue, Tweed Heads South.

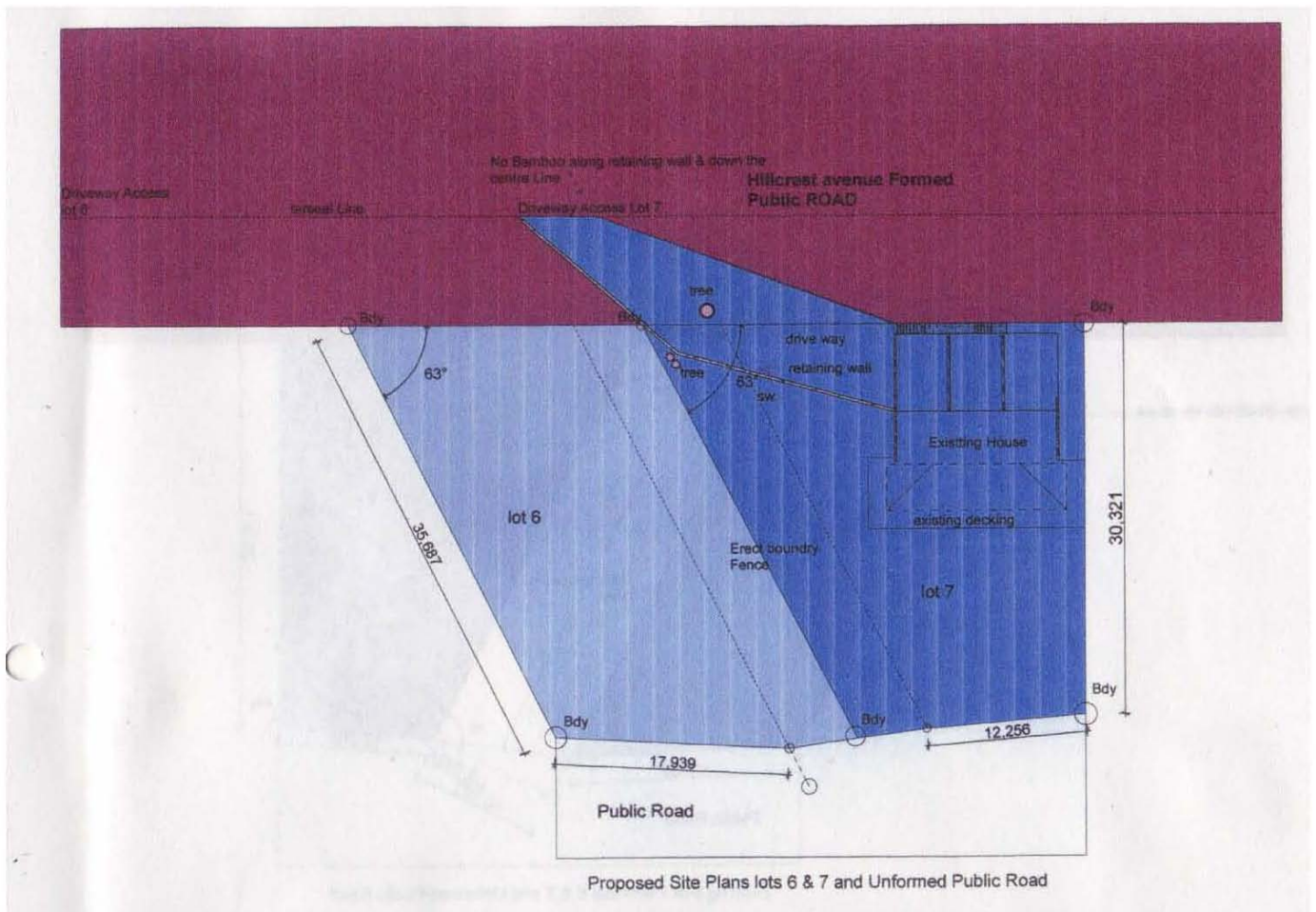
The road reserve proposed to be closed between Lots 6 and 7 is on a very steep gradient and heavily vegetated in the area closest to Hillcrest Avenue. Due to the steep gradient from Hillcrest Avenue it would not be foreseeable that construction would be possible between it and Philp Parade at the western end, see below plan:



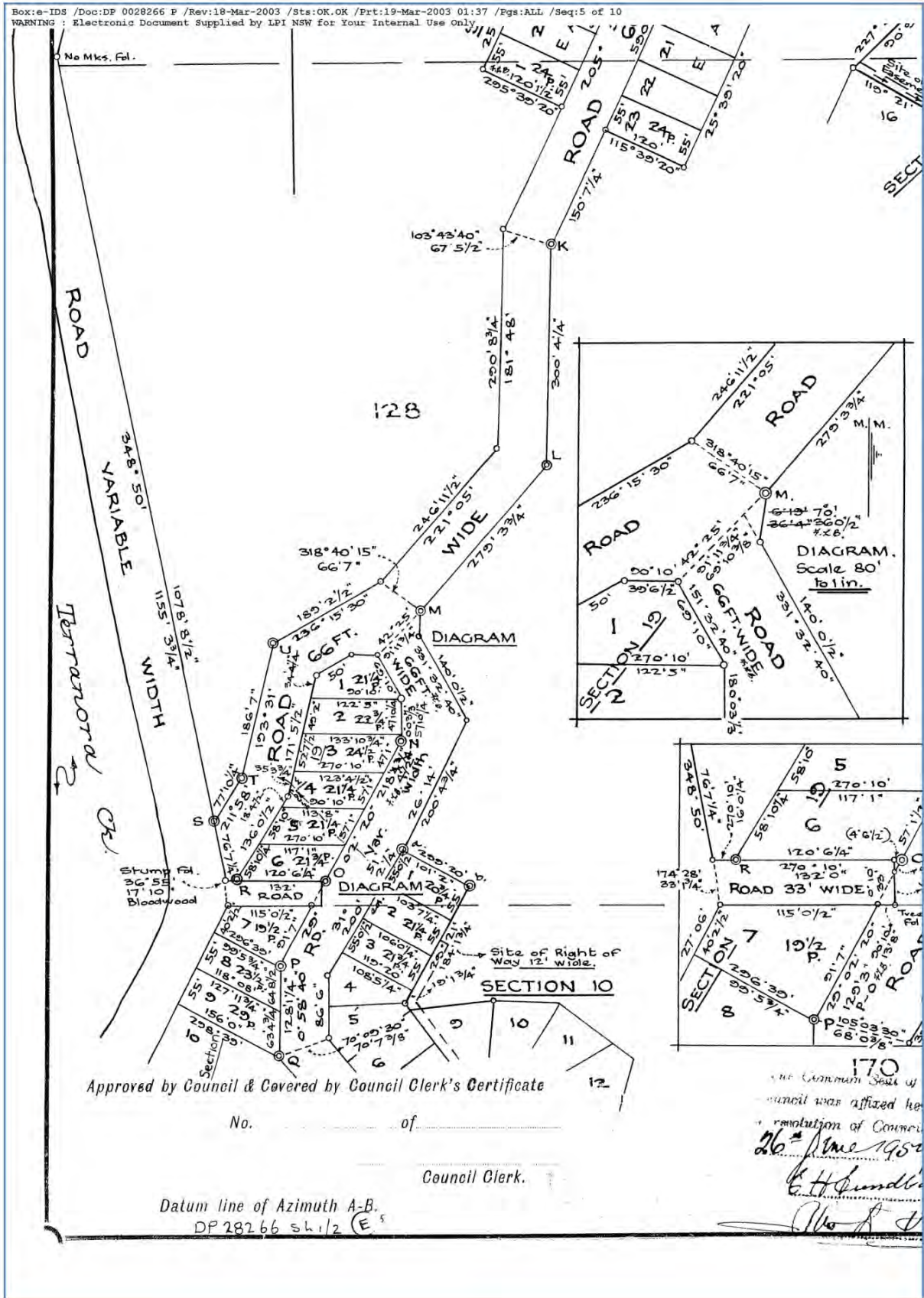
There is a section of road within Hillcrest Avenue also being sought by the owner of Lot 7 wherein his driveway access lies. The grade from the road edge to the site boundary is extremely steep and so a driveway with an angled alignment was required to be constructed to allow for a safe ingress/egress, and in turn has encroached onto the road reserve. The driveway was constructed over the road reserve with approval from Council in 1998 and the property owner was granted a licence agreement for driveway and access which has now expired.

Council's Policy on "Private Structures on Public Roads" now notes that Council will not enter into arrangements for leases within the road reserve to encompass existing or proposed structures. Council will however consider an application to close and purchase part of the public road having regard to the merits of each proposal, existing and future public utilities and road works and public amenity and safety.

Below is a plan showing the proposed area of road to be closed and purchased by the applicants.



Copy of DP28266 showing Lots 6 and 7 and the unnamed road reserve:



This application complies with Council's policy on "Road Closures and Private Purchase" in that:

1. There are topographical constraints that argue strongly for a more logical boundary definition for the purposes of private property access; and
2. Roads which are demonstrably redundant in terms of access; and
3. Where private structures have been permitted to permanently occupy public roads under lease arrangements "Councils Policy for Private Structures on Public Roads" allows a closure and purchase providing the Road Closure and Private Purchase restrictions are adequately addressed.

The road closure would not impact in any way on other properties within the immediate vicinity, nor would it interfere with the pedestrian access currently available along the front boundary of the properties, or on the existing formed roadway.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have a detrimental impact.

OPTIONS:

1. To approve the application to close and purchase part of the road reserve, or
2. To not approve the application to close and purchase part of the road reserve.

CONCLUSION:

It is recommended that Council approves the closure of part of the road reserve between Lots 6 and 7 Section 19 in DP 28266, 12-14 Hillcrest Avenue, Tweed Heads South and the closure of part of the road reserve known as Hillcrest Avenue adjacent to Lot 7 Section 19 in DP 28266.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.1.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.2 Complete land acquisitions including valuations

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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29 [EO-CM] Banora Point Upgrade Completion

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

SUMMARY OF REPORT:

The Banora Point Pacific Highway Upgrade project is nearing completion after almost 3 years of construction. The project has been designed and constructed by the Banora Point Upgrade Alliance (BPUA), on behalf of the NSW Roads and Maritime Services (RMS).

The \$359 million project provides 2.5km of 100km/h six-lane divided carriageway with an improved alignment across a viaduct and beneath a land bridge between Barneys Point Bridge and the Tweed Heads Bypass.

Council officers have been regularly involved in meetings and negotiations with the BPUA on various design, construction management, and asset handover issues over the life of the project. While many have been resolved, some significant issues, including the future ownership of Sexton Hill Drive (the old section of Pacific Highway) and the final configuration of Wilson Park remain outstanding.

RECOMMENDATION:

That Council:

- 1. Formally congratulates the Banora Point Upgrade Alliance and their Principal NSW Roads & Maritime Services for completing the Banora Point Pacific Highway Upgrade.**
- 2. Writes to the Federal and New South Wales Governments thanking them for their involvement in funding and delivery of the Banora Point Upgrade Pacific Highway Upgrade.**
- 3. Notes this report regarding the Council related issues during construction and completion of the Banora Point Pacific Highway Upgrade.**

REPORT:

A key component of the Lower Tweed and Pacific Highway Traffic Masterplan, the Banora Point Pacific Highway Upgrade is now almost complete, after almost 3 years of construction, and at a cost of approximately \$359 million (consisting of \$349 million from the Commonwealth and \$10 million from the State Government).

Key features of the upgrade include:

- Approximately 2.5km of six-lane divided carriageway, with an improved alignment and a posted speed limit of 100 km/h.
- Use of the existing Pacific Highway as the local access road (Sexton Hill Drive).
- Connection of south-facing ramps at Barneys Point Bridge with a southern interchange roundabout.
- The re-shaping of Wilson Park to provide greater use of the green space and easy access to all areas. This includes the re-establishment of parklands and a shared pedestrian/cycle path across the 75 metre wide land bridge. This will also provide a connection between East and West Banora Point.
- A viaduct about 330 metres long across the central valley south of Sexton Hill.
- Realignment of Laura Street to meet with Short Street and the existing Pacific Highway at a four-way signalised intersection.
- A northern interchange with north-facing ramps connecting to the Darlington Drive intersection and a new gateway roundabout. South-facing ramps connecting directly to the new gateway roundabout at Minjungbal Drive and an extension of Minjungbal Drive, passing below the proposed upgrade and connecting to Darlington Drive.
- Realignment and upgrade of the existing coastal pedestrian/cycle route through Banora Point.

Planning approval for the project was granted by the Minister for Planning in February 2009, and construction commenced in December 2009.

The State Government awarded the design and construction of the project to the Banora Point Upgrade Alliance (BPUA), which is a joint venture of the Roads and Maritime Services (RMS), Abigroup Contractors, Seymour Whyte Constructions, and Snowy Mountains Engineering Corporation (SMEC).

Throughout the project, a large number of Council staff from a variety of disciplines regularly met with the BPUA for project updates, consultation, and negotiation. Some of the key issues that have arisen during the project are discussed below.

Design Changes

The concept alignment and configuration of the Banora Point Upgrade as per the original major project approval is provided in Figure 1. Council's main concerns with the approved alignment involved the potential staging of works and the possible deferral of the south bound on ramp at the southern interchange, and further consultation during detailed design was requested regarding water and sewerage infrastructure, traffic and transport, and noise and vibration issues.

Banora Point upgrade

Upgrading the Pacific Highway

ENVIRONMENTAL ASSESSMENT AND REFINED DESIGN
FEBRUARY 2009

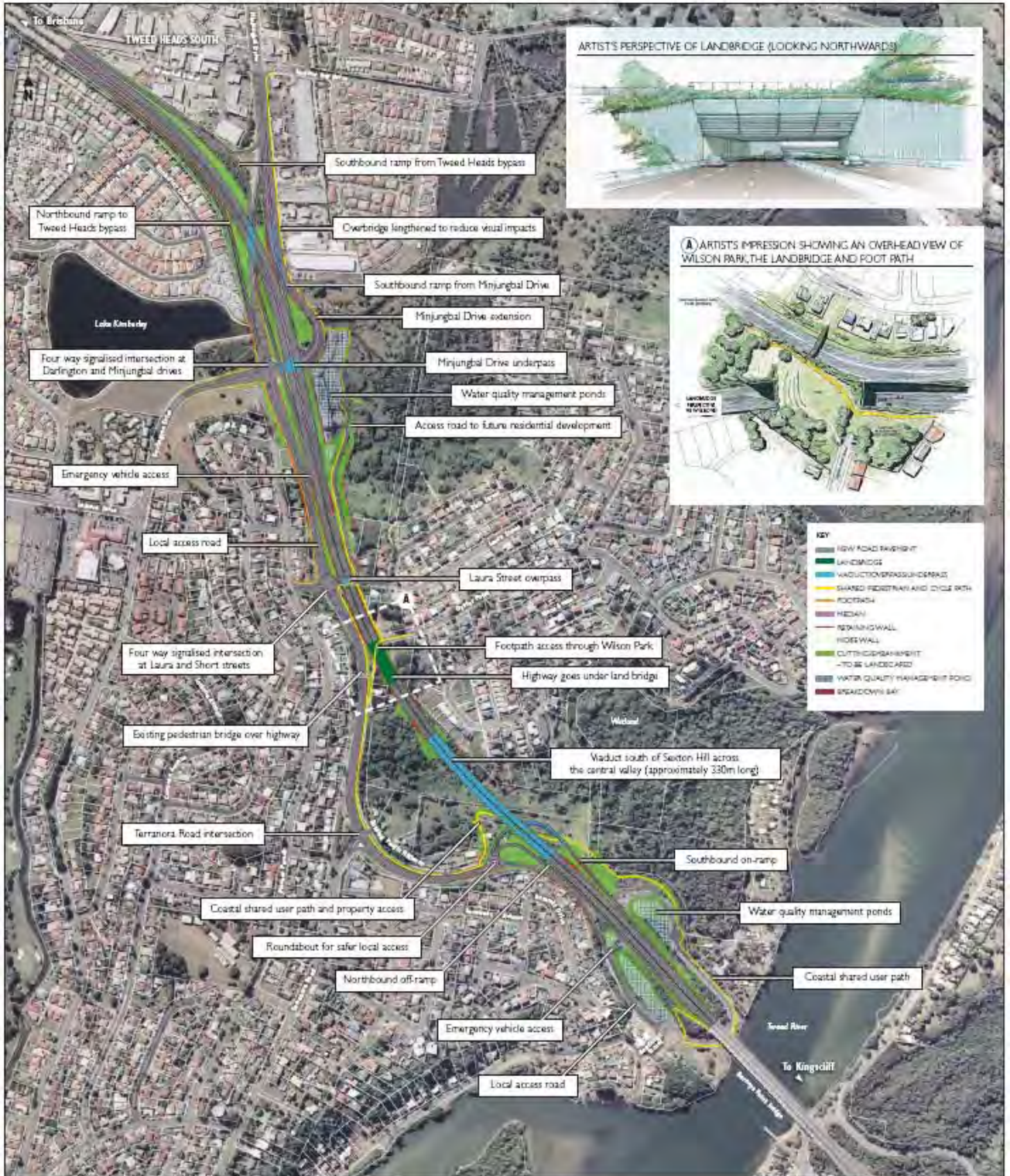


Figure 1 - Banora Point Upgrade "Approved Concept Plan" 2009

Subsequent to approval being granted, in 2010 the Alliance proposed significant changes to the Northern Interchange in their "Preferred Concept Design Report". The most significant change was the introduction of a two-lane roundabout at the Northern Interchange. Council officers had significant concerns regarding the relative efficiency of the interchange with a roundabout, and the potential for significant queuing on the local road network, in particular the southbound lanes of Minjungbal Drive, preferring the Approved Concept Plan.

The BPUA provided numerous assurances based on traffic modelling that the roundabout would provide acceptable levels of service, and provided third party review of these reports, and eventually the revised interchange design was accepted (although the Approved Concept Plan was still preferred), as it did provide various advantages in terms of staging of the project, ease of constructability and significant reduction of cost, which allowed other aspects of the project including the Southern Interchange to be fully included in the preferred design. It should be noted that the traffic modelling regarding the Northern Interchange was based on the assumed delivery of the Kirkwood Road Eastern Works. As previously reported to Council, Kirkwood Road is not scheduled for completion until late 2013, and there may be related impacts on the Northern Interchange as a result.

The Northern Interchange and Preferred Concept Design are included as Figures 2 and 3 of this report. These concept designs formed the basis of the detailed design and eventual construction of the Northern Interchange.



Figure 2 - Northern Interchange "Preferred Concept Design" 2010

Upgrading the Pacific Highway

Banora Point upgrade



Australian Government
Nation Building Program



NSW GOVERNMENT



RTA

Design refinements
OCTOBER 2010



Figure 3 - Banora Point Upgrade "Preferred Concept Design" 2010

Minjungbal Drive Clearway

As a direct result of the introduction of the Northern Interchange roundabout, RMS/BPUA requested changes to parking conditions on Minjungbal Drive northbound between Rivendell and Machinery Drive. Creation of a clearway during peak periods allows for increased traffic capacity along this section of road, to minimise queuing back into the roundabout and onto the highway off ramp from the Shallow Bay Drive traffic signals, and to better delineate traffic lanes to avoid merging conflicts. The parking changes were endorsed by the Local Traffic Committee and were implemented in mid-2011.

After implementation however, it was observed that stormwater ponding occurs in this section of road and that this presented a hazard to motorists. While this is an existing problem relating to a lack of underground road drainage and the high level of runoff from impervious areas in commercial properties discharging to the street, this ponding did not present a significant problem while it was a parking lane.

Council has initiated design work to correct this problem and has sought financial assistance from RMS to undertake drainage upgrades. A formal response has not yet been received.

Lake Kimberley Culverts

Lake Kimberley is an artificially created drainage system located on the western side of the Pacific Highway. A bank of culverts pass under the highway, providing an outlet from the lake to the Tweed River. A set of floodgates on the eastern end of the culverts prevents flood water entering the lake from the river, protecting adjoining residential land and infrastructure. Over many years, these aging floodgates leaked tidal water into the lake, creating a part saline environment. This in turn limited weed growth and related amenity issues, which have been a constant problem in other parts of the Banora Point Drainage Scheme.

In accordance with the approval for the Banora Point Upgrade, the culverts were upgraded and new floodgates fitted by the BPUA. However during construction the tidal connection between Lake Kimberley and Shallow Bay was severed for an extended period of time, and a subsequent fall in salinity levels was recorded. Due to increasing concerns from members of the community and Council officers for the health of Lake Kimberley, agreement was reached with RMS and BPUA, in consultation with NSW Department of Primary Industries (Fisheries), that a controlled tidal exchange needed to be reinstated through the culverts. Council subsequently replaced one of the flood flaps with a tidal floodgate in August 2011. Since installation salinity levels in Lake Kimberley have been monitored, and when necessary the floodgates have been opened to allow greater tidal ingress to occur. Council amended the Operational Management Plan for Lake Kimberley accordingly, and with a return to pre-development water quality, the issue appears to have been resolved.

Wilson Park

Wilson Park was located on the alignment of the highway upgrade, and in accordance with the planning approval, has been reinstated on the new land bridge.

Discussions are continuing between Council and the various agencies to resolve issues of land management, dedication and tenure that may ultimately determine the final design of Wilson Park. It is understood that the Banora Point Residents Association is also pursuing

the dedication of an adjoining residential property (2 Oyster Point Road) and funding for refurbishment of the existing tennis court through various avenues.

In the interim, Council's Landscape Architect is exploring options to convert the tennis court into a multi-purpose court which may provide a compromise to suit all stakeholders. Discussions on the design and management of the park will continue with the BPUA and the Residents Association.

Handover

The issue of handover of various assets to Council remains the most significant unresolved matter concerning the Banora Point Upgrade. As previously reported to Council, RMS intends to handover the old section of highway to Council as a local road. As such, Council would be solely responsible for operation and maintenance of this section of road, with no financial assistance from RMS. Council has pursued the reclassification of various arterial roads in Tweed Shire, requesting that they be classified as State Roads under RMS control, as has occurred in other Local Government Areas such as Gosford and Wyong, on the basis that the Lower Tweed is a "major urban area" due to our continuous connection to the Gold Coast.

To date RMS has not been receptive to Council's position, and as such, Council has resolved to not accept handover of the old Pacific Highway at completion of the Banora Point Upgrade.

OPTIONS:

Not applicable.

CONCLUSION:

The Banora Point Pacific Highway Upgrade represents a major road infrastructure project that will provide various benefits to highway traffic. Council officers have been heavily involved throughout the project to try and ensure that the works also provide benefits to the local road network and Tweed communities and businesses. As the project nears completion, negotiations shall continue regarding outstanding issues, including the handover of the old Pacific Highway and Wilson Park.

The Banora Point Upgrade Alliance and their Principal NSW Roads & Maritime Services are to be congratulated for completing this outstanding piece of infrastructure that will bring great benefits to the travelling public and residents of Tweed Shire. Although there are a few residual issues regarding ownership of Sexton Hill Drive and the traffic performance of the northern interchange and Darlington Street lights, which are yet to be resolved the overall impact of the project is extremely positive. The Federal and New South Wales Governments should also be thanked for their involvement in funding and delivery of this project.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2 Supporting Community Life

2.4 An integrated transport system that services local and regional needs

2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

30 [EO-CM Park Upgrades - Kingscliff

SUBMITTED BY: Recreation Services



Supporting Community Life

SUMMARY OF REPORT:

Council has been liaising with community groups in Kingscliff to develop draft landscape concept plans for Faulks Park, Kingscliff and Ed Parker Rotary Park, Kingscliff.

Faulks Park is located at the southern end of Marine Parade Kingscliff (near the boat ramp). The plan seeks to address a number of issues at this site including replacement and relocation of the old partially decommissioned toilet block, replacement of the play equipment which has been reduced to a basic swing set over time, replacement of the aged park shelters and construction of a path linking all the facilities in the park to increase accessibility.

Ed Parker Rotary Park is located on the north eastern side of the Cudgen Creek Bridge. The Kingscliff Rotary Club approached Council requesting support and assistance to develop a plan to address several issues within the park including creek bank erosion and control of vehicular access. Whilst the works identified in the plan are not currently funded, the intent of the Rotary Club is to develop an adopted plan that they can then work towards implementing over time.

Both draft plans have been considered and endorsed by the Kingscliff Ratepayers and Progress Association and recommended to place on exhibition inviting comment.

RECOMMENDATION:

That Council places the Draft Faulks Park Landscape Concept Plan and Draft Ed Parker Rotary Park Landscape Concept Plan on public exhibition for 28 days.

REPORT:

Council has been liaising with community groups in Kingscliff to develop draft landscape concept plans for Faulks Park, Kingscliff and Ed Parker Rotary Park, Kingscliff.

Faulks Park

Faulks Park is located at the southern end of Marine Parade Kingscliff near the boat ramp (figure 1). The primary objective of the draft plan is the replacement of ageing assets and increased accessibility throughout the park. The draft plan seeks to address a number of issues at this site including:

1. Replacement and relocation of the old partially decommissioned toilet block. This facility was set on fire several years ago which compromised the structural integrity of the building requiring its demolition and reconstruction. The proposed new facility will be relocated into Faulks Park to remove the requirement for park users to cross the car park access road to access the facility and the associated risk. The new facility will also meet current accessibility standards.
2. Replacement of the play equipment. The play equipment has gradually been reduced in scope over the years as components have been removed due to deterioration. A new comprehensive range will be installed which caters for a range of age groups and complies with current standards.
3. Connecting footpaths will be installed within the park to increase accessibility to the facilities and link with the coastal cycleway.

The draft plan has been considered and endorsed by the Kingscliff Ratepayers and Progress Association (the Association). It was also proposed to the Association that with the upgrade of Faulks Park, the play equipment in Lions Park (next to the Surf Club) will be removed. The reasons for the proposed removal of this play equipment are that the equipment has deteriorated beyond repair and requires removal or replacement.

Another consideration is that Lions Park is very narrow resulting in the play equipment having a significant impact on the park and necessitating its location close to hazards. An important consideration in locating play equipment is the 'Playground Best Practice Manual' which largely focuses on risk management of playgrounds, including issues such as siting, maintenance and inspections. The manual recommends separation from play equipment to 'hazards' such as roads, carparks and water bodies, recommending a minimum separation of 30m. The removal of the Lions Park equipment in association with the Faulks Park plan not only considers the most practical and functional locations for the play equipment, but also references the recommendations of the best practice manual.

The Association expressed a number of reasons why the Lions Park playground was popular with residents and a preference to retain the equipment. It is anticipated that the Faulks Park upgrade will cater for the current usage of the Lions Park playground, but it was agreed that the Lions Park equipment will remain in place until 6-12 months after the Faulks Park upgrade is completed to gauge use patterns and determine the future of the Lions Park equipment at this point in time.

Ed Parker Rotary Park

Ed Parker Rotary Park is located on the north eastern side of the Cudgen Creek Bridge (figure 1). The Kingscliff Rotary Club approached Council requesting support and assistance to develop a plan to address several issues within the park including creek bank erosion and control of vehicular access. A draft plan was developed with Council staff and Rotary Club representatives and endorsed by the Rotary Club. The draft plan was presented to the Association who also provided their endorsement.

The main elements of the draft plan include:

- 1: Stabilisation works on the creek bank including access control.
- 2: Removal of the loop road within the park and restricting vehicular access to the southern section of the park from the access road. The loop road will be replaced by a turn-around area and car park areas will be provided along the access road. This will separate traffic from recreation areas and increase the usable area of the park.
- 3: A raised viewing platform at the eastern section of the creek. This will use the natural topography to provide views to the mouth of the creek.
- 4: A low raised walkway through a tidal area to create access to a beach area and reduce access tracks up the bank face.

Whilst the works identified in the plan are not currently funded, the intent of the Rotary Club is to develop an adopted plan that they can then work towards implementing over time and use to apply for funding when available.



Faulks Park, Kingscliff
Ed Parker Rotary Park, Kingscliff

Figure 1: Location of Faulks Park and Ed Parker Rotary Park, Kingscliff

OPTIONS:

Council can resolve to place both draft plans, only one plan or neither on public exhibition

CONCLUSION:

The draft Faulks Park plan is a component of Council's park asset replacement program and the draft Ed Parker Rotary Park plan was initiated by the Kingscliff Rotary Club and will address a number of issues associated with the park including creek bank erosion and improved functionality of the park.

Placing the draft plans on exhibition inviting comment will allow Council and the community to adopt agreed plans and facilitate the implementation of the plans.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

1. Faulks Park funded through public toilets capital works and park asset renewal program.
2. Ed Parker Rotary Park currently unfunded. To be implemented by the Kingscliff Rotary Club and Council as funds are identified.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.3.6.8 Playground upgrade and rationalisation program
- 2.3.6.8.4 Remove Lions Park Kingscliff Playground and construct new playground at Faulks Park Kingscliff

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|--------------|--|
| Attachment 1 | Draft Faulks Park Concept Plan (ECM 57609487). |
| Attachment 2 | Draft Ed Parker Rotary Park Landscape Concept Plan (ECM 57609489). |
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31 [EO-CM] Response to Notice of Motion Street Tree Planting

SUBMITTED BY: Director



Civic Leadership

SUMMARY OF REPORT:

At the Council meeting 26 June 2012 Council resolved:

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

Whilst the motion is specifically about CBD street trees, the NSW Government has not been generally supportive of Section 94 Plans for street trees.

The Minister for Planning, The Hon Kristina Keneally, MP wrote to Council on 10 July 2009 and advised:

"Council is currently levying for additional community infrastructure which is not considered appropriate including street trees, It is considered that these items are not appropriate pieces of infrastructure for which contributions should be required."

In response to this advice, Contributions Plan No. 6 - Street Tree Planting in Residential Areas was decommissioned late 2009 and Council no longer levies under this plan.

However, street tree planting in Tweed Heads is implemented by Section 94 Plan No. 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping. This Plan is still operational as it was prepared in collaboration with the NSW Department of Planning as part of the Tweed Heads Master Plan process, however it is inconsistent with the note to the Minister's Section 94E direction of 19 July 2009.

Given the NSW government's negative attitude to including street trees in contributions plans and current Green Paper uncertainties of the future of the developer contributions system in NSW at this time, it would be prudent to take no action until matters clarify, particularly regarding the eligibility criteria for items to be included in such schemes.

RECOMMENDATION:

That no action be taken at this time in regard to amending Section 94 Plan No. 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping to include a higher level of street tree planting or to include the CBD of Tweed Heads South.

REPORT:

1. Notice of Motion

At the Council meeting 26 June 2012 Council resolved:

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

2. "Reforms" to the NSW Developer Contributions System

Since 2008, the NSW Government's developer contributions system administered by councils has been in a state of extreme confusion.

- A 2008 Amendment Act, containing an amended Part 5B of the Act to overhaul the contribution system, and limit eligible items to a criteria termed "Key Community Infrastructure" was passed by Parliament, given royal assent, but never proclaimed
- The NSW Government introduced an arbitrary \$20,000 contribution cap in 2009 which allowed for exemptions and indexation which was later replaced by a hard unindexed \$20,000 cap in June 2010 and then amended by a "refinement" in August 2010 that allowed exceptions for Greenfield areas to have a \$30,000 unindexed cap and "grandfathered" (substantially commenced) sites to have no cap.
- During 2009/2010 the NSW Department of Planning conducted audits on Council Section 94 Plans in accordance with the unproclaimed 2008 Amendment Act and the Minister issued letters and notes to Section 94E Directions, based on the findings of these audits requiring councils to amend or delete certain plans and ensure they were consistent with the 2008 Amendment Act.
- Late in 2009, Council reviewed, exhibited and adopted all of its contribution plans in accordance with Ministerial Directions.
- In November 2009 the Department issued "*Draft local development contributions guidelines*" based on the 2008 Amendment Act to guide councils on preparation of Section 94 Plans under the Amendment Act and to more clearly define what items were eligible under the "Key Community Infrastructure" definition.
- In September 2010 NSW Department of Planning issued a Fact Sheet that introduced yet another eligibility criteria for developer contributions called "Essential Works" which was far more restricted than the 2008 Amendment Act "Key Community Infrastructure" criteria.
- Some time in 2011, NSW Department of Planning staff, after much prompting advised unofficially that the 2008 Amendment Act, the criteria of "Key Community Infrastructure" and the "Guidelines" had all been dropped.
- The NSW Government issued the "Green Paper" 14 July 2012 which among other matters proposes to reform the developer contributions system and introduce further restrictions on items that can be funded through developer contributions.

Whilst the Notice of Motion, the subject of this report, is specifically about CBD street trees, the NSW Government has not been generally supportive of Section 94 Plans for street trees. This came initially in the form of an audit of Council's Section 94 Plan No. 6 - Street Tree Planting in Residential Areas, that was conducted by Aurecon Australia Pty Ltd in a report titled "*Draft Development Contributions Assessment - Tweed Shire Council Prepared*"

for NSW Department of Planning" 29 March 2009. This audit commissioned by the NSW Department of Planning advised:

"2.4 Plan No 6 - Street Tree Planing in Residential Areas

2.4.1 Overview

The Plan came into force on 25 August 1993 with subsequent amendments in 1995, 1998 and 2005. Its purpose is to levy developer contributions to provide for landscaping of new suburbs to ensure a high quality of street tree planting and landscaping.

2.4.2 Works Schedule

Council provides plants and street trees at a rate of 2 trees per allotment, subject to the location of public utilities, driveways and other obstructions.

2.4.3 Existing Contributions

As at March 2005 the costs associated with providing one tree is as follows:

- Tree \$60.00
- Plant and labour \$15
- Establishment \$60

(Source: Recreation Services Unit)

The cost to provide two (2) trees per lot is \$270.00 + 10% Administration Levy (Section 7). = \$297.00 per lot.

2.4.4 Analysis

The planting of street trees is considered to fall outside the ambit of key community infrastructure Council may request to have street tree planting be considered as the provision of "additional community infrastructure" however this will be at the discretion of the Minister for Planning.

It is therefore suggested that street tree planting is a matter that should be dealt with through imposing a condition of consent rather than applying a levy under the auspices of Section 94.

Setting aside the above comments, apportionment (in itself) is appropriate as the charges levied only apply to allotments in new subdivisions. The cost estimates are considered reasonable.

2.4.5 Summary

No further detailed analysis is required."

This was followed by a letter from the Minister for Planning, The Hon Kristina Keneally, MP on 10 July 2009 advising:

- "Council is currently levying for additional community infrastructure which is not considered appropriate including street trees,..... It is considered that these items are not appropriate pieces of infrastructure for which contributions should be required.
-
-
- It is therefore considered appropriate that Council review its suite of contribution plans to be consistent with the intended requirements of proposed Part 5B of

the Act as contained in Schedule 3 of the Environmental Planning and Assessment Act 2008..."

In response to this advice, Contributions Plan No 6 - Street Tree Planting in residential Areas was decommissioned late in 2009 and Council no longer levies under this plan.

However, street planting in Tweed Heads is implemented by Section 94 Plan No 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping. This Plan is still operational as it was prepared in collaboration with the NSW Department of Planning as part of the Tweed Heads Master Plan process, however it is inconsistent with Minister's advice of 10 July 2009.

The current government's "Green Paper" foreshadows further tightening of eligibility criteria for developer contribution plans. It proposes the following contributions structure:

FIGURE 20 OPTION FOR FOR DEVELOPMENT CONTRIBUTION REFORM

INFRASTRUCTURE	LOCAL INFRASTRUCTURE PLAN	REGIONAL OPEN SPACE FUND	GROWTH INFRASTRUCTURE PLAN	RESPONSIBLE DELIVERY AUTHORITY*
LOCAL ROADS	•			LOCAL COUNCIL
LOCAL DRAINAGE WORKS	•			LOCAL COUNCIL
LAND FOR COMMUNITY FACILITIES	•			LOCAL COUNCIL
LOCAL OPEN SPACE		•		LOCAL COUNCIL
LOCAL AND REGIONAL DRAINAGE LAND		•		LOCAL COUNCIL
REGIONAL OPEN SPACE		•		NSW GOVERNMENT
NEW AND UPGRADED REGIONAL ROADS			•	NSW GOVERNMENT
LAND FOR HEALTH AND EDUCATIONAL FACILITIES			•	NSW GOVERNMENT
LAND FOR EMERGENCY SERVICE FACILITIES			•	NSW GOVERNMENT

* MAY BE DELIVERED BY PRIVATE SECTOR

FIGURE 21 OPTION FOR DEVELOPMENT CONTRIBUTION REFORM

Calculating Growth Infrastructure Contribution	Greenfield Development	Infill Development
Local Infrastructure Contribution	Contribution amount identified in <i>Local Infrastructure Plan</i>	Contribution will be percentage of capital investment
Local and Regional Open Space Fund	Fixed Nominal Contribution	Fixed Nominal Contribution
Regional Infrastructure Contribution	Contribution amount identified in <i>Growth Infrastructure Plan</i>	Contribution will be percentage of capital investment

At this time it is not known if the scope of "local roads" referred to in the "Green Paper" would also include street tree planting.

3. Section 94 Plan No 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping

This contributions plan has a works schedule of \$2.003M for streetscaping and open space beautification in Tweed Heads, but only \$1.335M to be funded through the Contribution Plan (due to apportionment of part of Works Program benefits to existing development), the balance to come from other sources.

Appendix B, below is the Works Program of CP27.

Appendix B

WORK PROGRAM FOR THE TWEED HEADS MASTER PLAN LOCAL OPEN SPACE/STREETSCAPING

		2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2010/ 2015	2015/ 2025	TOTAL
Riverside High Density	Wharf Street-scape			\$244,000					\$244,000
	River frontage		\$413,020						\$413,020
	Frances Street trees		\$19,500						\$19,500
Ridgeline High density resident.	Street trees						\$36,400		\$36,400
Town Centre Core	Bay and Stuart St street-scape		\$100,000	\$212,200					\$312,200
	School site							\$303,940	\$303,940
Campus/ Civic	Sth boat harbour park					\$355,570			\$355,570
	Street-scape						\$90,350		\$90,350
	River frontage		\$228,480						\$228,480
Subtotal			\$761,000	\$456,200		\$355,570	\$126,750	\$303,940	\$2,003,460

Note: As per Appendix A, this contribution plan will only fund \$1,335,460 of the above total of \$2,003,460

The current contribution rate is an indexed \$1,047 per new/additional medium density unit.

It is a matter of conjecture whether this Works Program is adequate. At this stage detailed streetscaping design and costings have not been done and when done may reveal a shortfall in funding for these works. However the timing of redevelopment of Tweed Heads is most uncertain and the design and costing of streetscaping works has not been a priority. There is also the alternative, that adjacent streetscaping works may best be negotiated with individual developers of the CBD areas at the time of redevelopment and be part of consent conditions or a voluntary agreement. This may be a preferred outcome given the contributions cap limitations and extreme uncertainty of the future of developer contributions in NSW.

OPTIONS:

1. Amend Section 94 Plan No 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping to include a higher level of street tree planting and also include the CBD of Tweed Heads South.
2. Take no action at this time in regard to amending Section 94 Plan No 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping to include a higher level of street tree planting or to include the CBD of Tweed Heads South.

CONCLUSION:

Given the NSW Government's negative attitude to including street trees in contribution plans and current "Green Paper" uncertainties of the future of the developer contributions system in NSW at this time, it would be prudent to take no action until matters clarify, particularly regarding the eligibility criteria of items to be included in such schemes.

COUNCIL IMPLICATIONS:

a. Policy:

Section 94 Contributions Plan, Tweed Heads Master Plan.

b. Budget/Long Term Financial Plan:

Potential long term financial impact.

c. Legal:

Matter is subject to imminent legislative change.

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
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.2 Provide information to Councillors to enable them to carry out their civic office functions

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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32 [EO-CM] Response to Draft NSW Long Term Transport Master Plan

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

SUMMARY OF REPORT:

The *Draft NSW Long Term Transport Master Plan* was exhibited by Transport for NSW, 4 September 2012 and submissions be accepted up until 26 October 2012. The *Final Plan* is scheduled for release late 2012.

Release of the *Draft Plan* is the second stage of the plan's public exhibition process. A 102 page *Discussion Paper* was released in February 2012 and Council responded with a submission adopted at 20 March 2012 meeting.

The Draft Plan is Sydney centric with the majority of its 370 pages analysing and proposing solutions to Sydney's transport issues. "Chapter 6 - Providing Essential Access For Regional NSW" (41 pages) addresses non-Sydney transport issues, however many of these are addressed from the perspective of how people in regional NSW can travel to Sydney.

In terms of specific actions for Tweed Shire, Chapter 6 of the *Draft Plan* devotes half a page to the Northern Rivers Region. Regarding issues that impact on Tweed Shire, it advises that "*the NSW Government will continue to work with the Queensland Government to overcome the various jurisdictional regulatory arrangements that impede seamless and efficient travel into South East Queensland, such as cross-border bus services.*"

The Draft NSW Long Term Master Plan does not adequately deal with the strategic transport issues of Tweed Shire particularly in its context of being part of the Gold Coast/Tweed Urban Area, the sixth largest city in Australia. Being part of a large urban area that straddles the NSW/Qld border, Tweed's urban transport issues are largely invisible to NSW transport planners in Sydney. A number of amendments are recommended for inclusion in the Final NSW Long Term Transport Master Plan to overcome these deficiencies. These amendments will encourage a better contextual outcome for the Regional Transport Plan to address detailed transport issues in our region.

RECOMMENDATION:

That the Final NSW Long Term Transport Master Plan:

- 1. Integrate NSW transport planning for the Tweed, with:**
 - **Connecting SEQ 2031 - An Integrated Regional Transport Plan for South East Queensland**
 - **Gold Coast Southern and Central Area Transport Study (GCSCATS) 2012**
 - **Gold Coast City Transport Strategy 2031**
 - **Tweed Public Transport Strategy - July 2011**
- 2. 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. 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. Recommend that urban arterial roads in Tweed Shire, being part of the Gold Coast/Tweed major urban area, be classified as "State Roads" and be managed and funded by the NSW State Government.**
- 5. Recognise the Tweed Shire as a unique cross border region in its own right with a separate identity from the rest of the "Northern Rivers" region in the Final NSW Long Term Transport Master Plan and for the purpose of producing a "Regional Transport Plan". In this regard incorporate Attachment 1 of this report (an amended section 6.1) and Attachment 2 (an additional section 6.1.4) into the Final NSW Long Term Transport Master Plan.**
- 6. Encourage the Queensland Government to bring forward its planned southern extensions of the suburban rail network south of Varsity Lakes to Elanora and reinstate the proposal to extend the heavy rail line to Gold Coast Airport.**
- 7. Consider amending legislation to facilitate the establishment of a "Border Transport Zone" to effectively transfer the legislative and associated regulatory powers of the NSW Government, as they apply to designated modes of public transport in Tweed Shire, to the Queensland Government.**
- 8. Recommend adjustment of current public transport subsidy apportionment between Sydney and Regional NSW to enable equalisation and equity in public transport fare levels across all of NSW.**
- 9. Prescribe as a precursor for preparing the Regional Transport Plan for the Tweed Region, that collaboration take place between Transport for NSW and QLD Transport authorities to ensure alignment of NSW and QLD strategic transport plans in the Gold Coast/Tweed urban area.**

REPORT:

1. Preparation of NSW Long Term Transport Master Plan

The NSW Government has created Transport for NSW 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.

The Government has committed to delivering a NSW Long Term Transport Master Plan in 2012 and Transport for NSW is managing this process. The timetable to complete and prepare the NSW Long Term Transport Master Plan is:

- Transport for NSW prepare *NSW Long Term Transport Master Plan Discussion Paper*
- *Discussion Paper* released 24 February 2012, submissions closed 27 April 2012
- Transport for NSW consider submissions on *Discussion Paper* and prepare *Draft Plan*
- *Draft Plan* released 4 September 2012, submissions close 26 October 2012.
- Transport for NSW consider submissions on the *Draft Plan* and prepare *Final Plan*
- *Final Plan* is scheduled for release late 2012.

This report responds to the *Draft NSW Long Term Transport Master Plan*, released 4 September 2012, and in particular to the Draft Plan's response to Council's submission to the February 2012 *Discussion Paper*.

2. Draft NSW Long Term Transport Master Plan

The Draft Plan contains the following sections:

Chapter 1

Why transport matters

The draft Long Term Transport Master Plan looks first at customer needs – the role transport plays in our lives and what we value in our transport system. It explores the links between transport and the economy, the environment and the social outcomes we want to achieve as a community.

Chapter 2

Customer-focused integrated transport planning

This chapter explains the principles that will guide the ongoing development of initiatives outlined in the draft Long Term Transport Master Plan. These principles shift the focus of transport planning towards an integrated planning approach that supports land use planning, development of a connected system and customer needs.

Chapter 3

Integrating modes to meet customer needs

This chapter sets out the actions we will take to provide a fully integrated transport system that provides seamless, convenient and reliable travel across NSW.

Chapter 4

Getting Sydney moving again

This chapter describes the action needed for Sydney to meet its transport needs now and over the next 20 years and to remain a successful and prosperous global city. With the city set to grow rapidly, this chapter sets out the choices, solutions and investments needed to build the modern, world-class transport system Sydney needs to support population, business and jobs growth.

Chapter 5

Sustaining growth in Greater Sydney

This chapter considers the transport challenges and solutions for Sydney's Regional Cities of Parramatta, Penrith and Liverpool, the North West and South West Growth Centres and the major corridors servicing these areas and key precincts such as Sydney Airport and Port Botany.

Chapter 6

Providing essential access for regional NSW

This chapter explains how the regions and our growing regional cities and towns will need efficient, safe and fast connections to meet new travel demands, provide access to vital services, sustain local employment growth and manage an increasing freight task.

Chapter 7

Supporting efficient and productive freight

This chapter sets out the challenges facing the freight network and the actions we will take over the next 20 years to support an efficient and productive freight industry.

Chapter 8

Statewide challenges

A number of challenges apply to the entire transport network and are not specific to any one city or region. This chapter describes how we will meet these diverse challenges over time as we build a modern, efficient and sustainable transport system for NSW.

Chapter 9

Modes at a glance

This chapter summarises the actions being taken through the draft Long Term Transport Master Plan as they apply to each mode of transport. More detail about these actions is provided in the relevant chapters of the draft Long Term Transport Master Plan.

Chapter 10

Funding

The funding challenges associated with improving our transport system are summarised in this chapter, which describes how transport is funded now and how it can be funded in the future.

Chapter 11

Delivering the Master Plan

This chapter sets out governance reforms to strengthen the transport planning process in NSW, with a focus on ongoing consultation with the community and a best practice decision making and strategic planning framework.

Chapter 12

What our customers say

This chapter outlines the consultation undertaken in developing the draft Long Term Transport Master Plan, focusing on what our customers have told us across each of the Master Plan's topics. It concludes by inviting customer feedback to strengthen the Master Plan.

The 368 page *Draft Plan* has a 41 page Chapter 6 on non-Sydney transport issues. This contains half a page on transport issues for the "Northern Rivers" region. This page has a number of lines which refer to transport issues in the Tweed.

2. Response to Council's Submission on the February 2012 *Discussion Paper*

Council responded to the Discussion Paper 20 March 2012 and made nine recommendations. The nine recommendations are reproduced below in italics with comments on how the September 2012 Draft Plan has responded to Council's submission.

"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*

Comment: The *Draft Plan* does not acknowledge or implement this recommendation.

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.*

Comment: The *Draft Plan* acknowledges and proposes to implement this recommendation in Chapter 6 by advising:

"The NSW Government will continue to work with the Queensland Government to overcome the various jurisdictional regulatory arrangements that impede seamless and efficient travel into South East Queensland, such as cross-border bus services."

and

"Improving bus services, including frequency and coverage of the bus network will be an ongoing priority to reduce social disadvantage, particularly for a growing and ageing population. Transport for NSW will work with local operators and the community to consider possible new routes, additional services and greater integration of services to create better accessibility to services for the Northern Rivers. This would also include potential new connections to improve integration of the Northern Rivers and South East Queensland."

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.*

Comment: The *Draft Plan* does not acknowledge or implement the above recommendation. The role of the Gold Coast Airport as the second largest in NSW is ignored again in the *Draft Plan* (refer Figure 6.10). It appears that because the Gold Coast Airport straddles the border and is located in both NSW and Qld that it is dismissed by Transport for NSW as being not relevant to NSW residents. The Gold Coast Airport has become the principal access point for Tweed (and a significant portion of The Northern Rivers region) residents and visitors to travel to Sydney, distant parts of NSW and interstate. Air travel through the Gold Coast Airport has largely supplanted the previous role of long distance rail travel for Tweed residents. Whilst the NSW rail system through bus links to Casino is a still valuable service, it is now very much a minor provider compared with air travel, being slower, less frequent and generally more expensive.

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.*

Comment: The *Draft Plan* does not address or implement this 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.*

Comment: The Draft plan considers cycling and walking in a NSW regional context in Chapter 6.

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 (e.g. 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.*

Comment:

In relation to these matters, Chapter 6 of the Draft Plan advises:

"Improving bus services, including frequency and coverage of the bus network will be an ongoing priority to reduce social disadvantage, particularly for a growing and ageing population. Transport for NSW will work with local operators and the community to consider possible new routes, additional services and greater integration of services to create better accessibility to services for the Northern Rivers."

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).*

Comment: The Draft Plan does not acknowledge this difference.

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.*

Comment: The Draft Plan does not address or adopt this recommendation.

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.*

Comment: The *Draft Plan* does not implement the above recommendation. It responds in a more limited operational sense in Chapter 6 by advising:

"The NSW Government will continue to work with the Queensland Government to overcome the various jurisdictional regulatory arrangements that impede seamless and efficient travel into South East Queensland, such as cross-border bus services."

Whilst the Draft Plan's acknowledgement and proposed action above is welcome, the lack of response to Council's other recommendations, particularly the need to strategically plan transport for the Gold Coast/Tweed urban area as one system is disappointing.

3. The Draft Plan's Regional Perspective

Chapter 6 of the *Draft Plan* (Attachment 3) analyses and addresses the transport issues of the NSW Regional Cities defined as Newcastle (350,800), Wollongong (267,300) and Central Coast (Gosford/Wyong 317,000) as these centres are considered to be high population growth, dynamic, diverse centres for commercial activity, drivers of economic growth and the engine rooms of their regions economies. They are areas where there is increasing traffic congestion, high levels of car dependency, unreliable bus travel and a need to ensure transport solutions are integrated with land use planning. The draft report concludes

- *"As our regional cities continue to change and grow over the next 20 years, public transport planning, infrastructure and services must also keep up with evolving travel demands", and*
- *"As Newcastle, Wollongong and the Central Coast continue to grow in size and importance to the NSW economy, they need faster and more efficient links to Sydney – and through Sydney to the rest of the world.*
- *With all three centres now facing emerging congestion- related issues, action is needed to keep major road arteries flowing, remove bottlenecks in regional supply chains and protect local amenity and liveability.*
- *With more people choosing to live in these centres, improved public transport connections are essential to supporting urban renewal, economic development and the creation of local jobs."*

The Lower Tweed and Tweed Coast (population 70,055) is part of the continuous Gold Coast/Tweed urban area with an aggregate population of 576,747, which is acknowledged by the ABS as the sixth largest city in Australia, by population. It has the same urban, growth, local and interregional transport characteristics and issues as the other three NSW regional cities. But, because Gold Coast/Tweed straddles a state border, its major urban status is unrecognised by transport planners in Sydney, and consequently its transport issues are largely ignored and viewed through a limited NSW Northern Rivers regional perspective.

The *Draft Plan's* approach to view our transport issues in a Northern Rivers regional perspective puts the Tweed at a substantial disadvantage. The transport issues of the rest of the Northern Rivers Region are very much typical country/regional town issues and unrelated to the urban transport issues encountered in Gold Coast/Tweed. In this grouping the majority of Councils will be pursuing transport goals unrelated to those of the Tweed and there is a risk our issues will be overlooked.

The Draft Plan should designate the Tweed as a separate region for planning purposes so that its unique cross border urban area issues can be adequately considered. The *Draft Plan* has provided special sections for Newcastle, Wollongong and the Central Coast and it is proposed that the Gold/Coast Tweed also be provided with a special section. In this regard Section 6.1 of the Draft Plan has been amended (see Attachment 1) to include Tweed in general discussion of the transport issues of NSW regional cities. An additional Section 6.1.4 (see Attachment 2) has also been drafted dealing specifically with the Tweed Region.

4. The Strategic Transport Planning Context

4.1 Tweed Shire Council Public Transport Strategy

Council at its meeting held 19 July 2011 adopted a Public Transport Strategy which included the following resolutions:

"That Council:

1. *Requests the NSW Government integrate the bus services in Tweed Shire into the Queensland 'Trans Link' transportation system.*
2. *Develops a Rapid Bus Transit Corridor Plan from Gold Coast Airport Transport Hub to Pottsville through the coastal villages with links to Murwillumbah.*
3. *Requests the NSW Government Ministry of Transport to advise on progress on The Cross Border Transport Taskforce Report 2009 recommendations.*
4. *Due to uncertainty that it will ever be constructed does not rely on a heavy rail link from Coolangatta to Yelgun in a medium to long term Tweed Shire Public Transport Strategy.*
5. *Does not include the southerly extension of light rail south of the Coolangatta Airport Hub in any medium/long term Tweed Shire Public Transport Strategy.*
6. *Council advises Transport NSW of these views and requests to be involved in the Far North Coast Regional Transport Strategy development".*

In relation to the *Draft Plan*:

- Item 1 is acknowledged and proposed to be implemented in Chapter 6 of the *Draft Plan*.
- Item 2 is initially a matter to be implemented by Council in consultation with Transport for NSW, however if current attempts to reclassify urban arterial roads to "State Road" status are successful, then NSW RMS will also be involved as the manager of these roads.
- Item 3 has not been acknowledged in the *Draft Plan*.
- Items 4 and 5 are strategic acknowledgements by Council of the unlikely long term delivery of these transport infrastructure modes, due to their extremely high cost and capacity mismatch to trip demand in the catchment.
- In relation to the Casino to Murwillumbah rail corridor the Draft Plan advises "*We will complete the Casino to Murwillumbah rail corridor investigation and consider its recommendations.*"
- Item 6 relates to further regional strategies to be developed by Transport for NSW following release of the *Final NSW Long Term Traffic Master Plan*.

4.2 Draft Gold Coast City Transport Strategy 2031

The *Draft Gold Coast City Transport Strategy 2031 (GCCTS)* is on public exhibition from 16 October 2012. This strategy follows up *Connecting SEQ 2031: An Integrated Regional Transport Plan for South East Queensland (2011)* and will be the principal transport planning strategy for the Gold Coast, and will be the principal transport planning strategy for the Gold Coast/Tweed Urban Area. The Draft GCCTS 2031 aligns Gold Coast City Council transport initiatives with QLD State Government plans and strategies. It has been prepared in consultation with QLD Department of Transport and Main Roads and Translink. The 36 page GCCTS is supported by a more detailed "Technical Report".

The Draft *GCCTS designates* "Cross-border transport issues" as one of its nine "Key transport challenges" - in the following terms:

"120,000 people will call the Tweed Shire home in 2020 - up from 74,000 in 2011. Logan city will grow from 290,000 people in 2011 to 351,000 in 2021. Cross-border issues include the need for better integrated road networks and land use, more extensive cycle paths and the need to extend the coverage of the go card system to the Tweed."

The Strategy and Technical Report are mostly concerned with Gold Coast City issues, however there are a number of sections that will impact on Tweed transport which include:

Mode share targets

.....
"By 2031 we aim for

- *public transport to be 12 per cent of all daily trips across the city (up from 3.1% in 2011)"*

Overview of draft Gold Coast Transport Strategy policies (GCCTS Technical Report Page 27)

Public transport	
<i>Objective: To improve the quality of the public transport system so it provides an attractive alternative to the car</i>	
<i>Policy 7</i>	<i>Work with Department of Transport and Main Roads to simplify the bus route network.</i>
<i>Policy 8</i>	<i>Work with Department of Transport and Main Roads to progressively deliver a city-wide, integrated, high-frequency public transport network, consisting of light rail, heavy rail and bus.</i>
<i>Policy 9</i>	<i>Support the development of new park-and-rides for bus and rail passengers</i>
<i>Policy 10</i>	<i>Extend community transport options in areas of weak demand</i>
<i>Policy 11</i>	<i>Integrate requirements to support public transport within other policy areas</i>

8. Public transport network (GCCTS Technical Report Page 51)

Policy 7 Actions:		
Action	Lead	Timeframe
..... <i>7.3 Integrate Tweed Shire public transport services with the Gold Coast transport network</i>	<i>Transport for New South Wales/DTMR</i>	<i>2013-14</i>

.....

"Policy 8: Work with State Government to progressively deliver a city-wide, integrated, high frequency public transport network, consisting of light rail, heavy rail and bus.

The 2031 public transport network (GCCTS Technical Report Page 56)

By 2031, this draft transport strategy proposes that:

-
- *the light rail branch line is extended south to the airport*
-
- *the heavy rail line is extended to Elanora*

.....

The extension of passenger rail south of Elanora has not been proposed due to its relatively low patronage potential, the high construction costs, and its duplication of function with the light rail extension to the airport. Modelling shows that demand on regional rail would be low, and that the southern Gold Coast and airport are better serviced by light rail. However the need for a regional rail extension to the airport will be monitored, and the rail corridor between Elanora and the airport will be protected for possible future extensions.

Extending our light rail network (GCCTS Technical Report Page 58)

.....

- *Line A is extended in stages to the south between now and 2031. Extension staging options include Broadbeach to Nobby Beach; Nobby Beach to Burleigh Heads; Burleigh Heads to the Gold Coast Airport. Demand modelling shows that patronage between the Airport and Coolangatta is relatively low in 2031 and therefore no extension south beyond the Airport is proposed before 2031. Demand to the south of the airport would be met by rapid bus services that can service the dispersed demand in Coolangatta and north Tweed. A corridor will be protected for a future extension of light rail to Coolangatta.*

-
- *A new line D is introduced on the main line between Burleigh Heads and Main Beach, and operates on a 3-kilometre northern branch line between Main Beach and The Spit. This would provide direct connections between tourist precincts, and allow further frequency increases on the busy Burleigh Heads to Main Beach main line sector. A branch line is also proposed between Burleigh Heads and Elanora.*

(GCCTS Technical Report Page 61)

Policy 11 actions		
Action	Lead	Timeframe
<i>11.13 Advocate for Ormeau and Tweed to be included in the Gold Coast Cabs service area</i>	<i>Council/DTMR</i>	<i>2013</i>





Figure 4 – Overview of proposed key projects

4.3 Implications of the Gold Coast City Transport Strategy to Tweed Shire and the NSW Long Term Transport Master Plan

In a limited way, the GCCTS deals with transport in the Gold Coast/Tweed urban area in an integrated manner. It is however very much a QLD document and whilst Tweed Shire Council staff have been consulted by GCCC staff during the preparation of the strategy and have regularly attended stakeholder meetings, there has not been participation at these stakeholder meetings by representatives of the NSW Government or Transport for NSW. Thus this opportunity for integrating NSW/QLD cross border transport issues has been lost. It would be hoped that as Transport for NSW embarks on the preparation of Regional Transport Plans (following adoption of the Final *NSW Long Term Transport Master Plan*), that meaningful collaboration will take place between Transport for NSW and Qld Transport authorities to ensure alignment of the NSW and Qld strategic transport plans in the Gold Coast/Tweed urban area.

Specific matters raised in the GCCTS that may impact on Tweed Shire are:

GCCTS Action	Impacts
Integrate Tweed Shire public transport services with the Gold Coast transport network	GCCC support for this reform will assist TSC advocacy for TransLink cross border integration and is aligned with the Draft <i>NSW Long Term Transport Master Plan</i>
Light rail to be extended to the airport	This will provide an intermodal focus at the Airport for Tweed bus services connecting to the north. Gold Coast light rail connectivity is not considered in the Draft <i>NSW Long Term Transport Master Plan</i>
Extension of passenger rail south of Elanora has not been proposed due to its relatively low patronage potential, the high construction costs, and its duplication of function with the light rail extension to the airport	<ul style="list-style-type: none"> • Absence of heavy rail at the Airport intermodal interchange will decrease its functionality as a focus for Tweed bus services. • Current NSW studies into Casino Murwillumbah rail line, referred to in the <i>NSW Long Term Transport Master Plan</i> are considering the worth of an extension to Gold Coast Airport to link with Qld rail. This will be irrelevant if the QLD system terminates at Elanora. • Tweed residents and commuters need better bus connections to the Brisbane rail network, which currently terminates at Varsity Lakes some 13km north of the NSW/QLD border. To improve access for Tweed residents, the Queensland Government should be encouraged to bring forward its planned southern extensions of the rail network and reinstate the proposal to extend the heavy rail line to Gold Coast Airport.
Advocate for Ormeau and Tweed to be included in the Gold Coast Cabs service area	This would assist the creation of one Gold Coast/Tweed taxi area. Cross border taxi issues are not considered in the Draft <i>NSW Long Term Transport Master Plan</i>

4.4 How Can Transport Planning, Management and Operation be Integrated Across the Gold Coast/Tweed Urban Area?

Current institutional arrangements are not delivering an integrated transport system across the urban area as each state only considers issues on its own territory.

A radical model would be to amend legislation to facilitate the establishment of a "Border Transport Zone" to effectively transfer the legislative and associated regulatory powers of the NSW Government, as they apply to designated modes of public transport in Tweed Shire, to the Qld Government.

A more conservative model would see the NSW Government requesting the QLD Government to expand the scope of transport planning and management in South East Qld to include the Tweed Shire area and for Transport for NSW to be a junior partner in this transport planning/management process.

At the very least, Transport for NSW should:

- Seek stakeholder status in South East Qld transport planning processes to ensure the interests of Tweed Shire residents are fully represented and
- Ensure the outcomes of the NSW and QLD transport planning processes in the Gold Coast/Tweed border area are aligned.

5. NSW Regional Transport Issues

Chapter 6 of the *Draft Plan* Sections 6.2 to 6.8 addresses a range of issues in regional areas including:

- Improving the mix of transport options across regional NSW, roads, rail, bus, community transport, air;
- Travel to major centres and Sydney, comparison between air, rail and road times;
- Regional rail travel;
- Rural state road performance;
- Preserving amenity and character of regional towns;
- Meeting needs of an ageing regional population, particularly increased demands on community transport;
- Moving regional freight efficiently;
- Increasing cycling and walking opportunities.

There are a number of proposed actions for regional transport, but, apart from commitments to rural highway upgrades and safety improvements, they are mostly non-specific and generic and unlike the detailed and specific commitments made for transport issues in Sydney.

Maximum bus fares in NSW regional areas have been set by IPART at a higher level than in Metropolitan Areas, based on economic circumstances for the rural operators. This imposes higher costs on the public in rural areas, where incomes are considerably lower than in the large cities (about one third lower in the case of Tweed Shire). This in turn makes transport services less economic in rural areas, and contributes to the decline in usage of public transport in some areas, or the inability to expand patronage in other areas. In addition, average journey length is higher in rural areas, which can also contribute to higher travel costs. Ideally there should be an equitable fare structure across all of NSW. There is a growing problem in our region for student travel between schools, and between school and TAFE campuses, required by the curriculums. These movements are not facilitated by bus routes and schedules and there is an inability to use concession cards. Young people in rural areas depend heavily on public transport to get to education, social and recreation events, and are arguably the most disadvantaged group in terms of equitable access to suitable public transport. The *Draft Plan* only provides generic commitments to improve regional bus travel by "*identifying and addressing service gaps*" and "*Route and timetable changes and integration between different services*" with very few specifics and it does not address fare equity issues.

Commitments to improvements to regional rail services in the *Draft Plan* are limited to the Hunter region.

The plight of rural residents who are sick, frail, have a disability, or are less mobile is worsened by the much greater distances they may have to travel to a specialist service or hospital than those in urban areas. For this reason, it is not equitable to fund Community Transport programs on the simple basis of the number of clients, or potential clients. Distance is the single most important factor in determining the cost of running a Community Transport program. There is a need for a funding factor that takes into account the average travel distance typical of each particular region. The *Draft Plan* only provides an unquantified commitment to "provide additional funding for community transport services and improve available resources for the community transport sector following a detailed review that includes identifying outcomes in individual regions".

The *Draft Plan* provides unquantified commitments to "*invest in better information and infrastructure to support cycling in conjunction with regional councils*" and to "*invest in better information and infrastructure to support walking in conjunction with regional councils.*"

CONCLUSION:

The *Draft NSW Long Term Traffic Master Plan* is a step in the right direction to strategically and holistically plan all transport modes in NSW and to identify the necessity to align transport and land use planning. The *Draft Plan* has been captured by Sydney interests and does not treat NSW in a balanced way. The original template was to produce a whole of NSW plan followed by production of Regional Plans for the various regions of NSW including Sydney, to provide the detail of long term transport planning for each region. Much of the NSW *Draft Plan* however has been populated by detailed issues relating to transport issues in the Sydney region, but only scant detail has been included for the non-Sydney regions across the rest of NSW.

Therefore the Draft NSW Long Term Master Plan does not adequately deal with the strategic transport issues of Tweed Shire particularly in its context as part of the Gold Coast/Tweed Urban Area. Being part of a large urban area that straddles the NSW/Qld border, Tweed's urban transport issues are largely invisible to NSW transport planners in Sydney. A number of amendments are recommended for inclusion in the Final NSW Long Term Transport Master Plan to overcome these deficiencies. These amendments will encourage a better contextual outcome for the yet to be prepared *Regional Transport Plan* to address detailed transport issues in our region.

Whilst Council adopted the Public Transport Strategy in July 2011 and *'it is not considered expedient to rely on heavy rail as part of a Tweed Public Transport Strategy, due to its extreme uncertainty. However if at some future date a decision was taken at a state or federal level to construct a link from the Gold Coast Airport Transport Hub to Yelgun or thereabouts this would be a welcome addition to the suite of public transport modes within Tweed Shire. A heavy rail link would be compatible with the rapid bus transport corridor system that Council may construct in the interim period.'* The NSW Government undertook to commission a Study into the feasibility of re-opening the Casino to Murwillumbah railway line and its possible extension to the proposed southern extension of the Queensland rail system and in this regard it is pleasing to note that the *Draft Plan* advises:

- *"We will complete the Casino to Murwillumbah rail corridor investigation and consider its recommendations."*

It is recommended that the Final NSW Long Term Transport Master Plan:

1. Integrate NSW transport planning for the Tweed, with:
 - Connecting SEQ 2031 - An Integrated Regional Transport Plan for South East Queensland
 - Gold Coast Southern and Central Area Transport Study (GCSCATS) 2012
 - Gold Coast City Transport Strategy 2031:
 - Tweed Public Transport Strategy - July 2011
2. 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. 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. Recommend that urban arterial roads in Tweed Shire being part of the Gold Coast/Tweed major urban area, be classified as "State Roads" and be managed and funded by the NSW State Government.

5. Recognise the Tweed Shire as a unique cross border region in its own right with a separate identity from the rest of the "Northern Rivers" region in the Final NSW Long Term Transport Master Plan and for the purpose of producing a "Regional Transport Plan". In this regard incorporate Attachment 1 of this report (an amended section 6.1) and Attachment 2 (an additional section 6.1.4) into the Final NSW Long Term Transport Master Plan.
6. Encourage the Queensland Government to bring forward its planned southern extensions of the suburban rail network south of Varsity Lakes to Elanora and reinstate the proposal to extend the heavy rail line to Gold Coast Airport.
7. Recommend amending legislation to facilitate the establishment of a "Border Transport Zone" to effectively transfer the legislative and associated regulatory powers of the NSW Government, as they apply to designated modes of public transport in Tweed Shire, to the Qld Government.
8. Recommend adjustment of current public transport subsidy apportionment between Sydney and Regional NSW to enable equalisation and equity in public transport fare levels across all of NSW.
9. Prescribe as a precursor for preparing the Regional Transport Plan for the Tweed Region, that collaboration take place between Transport for NSW and QLD Transport authorities to ensure alignment of NSW and QLD strategic transport plans in the Gold Coast/Tweed urban area.

COUNCIL IMPLICATIONS:

a. Policy:

Tweed Shire Council - Public Transport Strategy, July 2011.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Legislative amendments are required to address cross border transport governance issues.

d. Communication/Engagement:

Submission to be made to Transport for NSW.

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
- 2.4.2.1 Seek the provision of cost effective public transport for all person access

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1 Proposed Changes to Section. 6.1 of the *Draft NSW Long Term Transport Master Plan* (ECM 57698419)
- Attachment 2 Proposed additional Section 6.1.4 of the *Draft NSW Long Term Transport Master Plan* (ECM 57698422).
- Attachment 3 Chapter 6 - *Draft NSW Long Term Transport Master Plan* (ECM 57661021).
-

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

33 [TCS-CM] Dates and Times of Council Meetings

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Dates and times for future Council meetings are required to be established and will be reviewed at the February 2013 meeting to gauge the suitability of the revised format.

RECOMMENDATION:

That:

1. The dates and times of future ordinary Council meetings are:

Dates: Thursday 15 November 2012
Thursday 13 December 2012
Thursday 24 January 2013
Thursday 14 February 2013

Times: Meetings will commence at 6.45pm, which will be preceded by any Reserve Trust meeting/s that commence at 6.30pm.
Meetings will conclude by 10pm.

Venue: The venue will be the Murwillumbah Civic Centre unless an alternative venue is resolved by Council.

2. Community Submissions on items likely to be considered at a future council meeting will be conducted on each Thursday other than the day of the Council Meeting. Dates of Community Submissions leading up to the November 2012 council meeting, commencing at 5.30pm and concluding no later than 6.30pm, will be:

Dates: Thursday 1 November 2012
Thursday 8 November 2012

Venue: The venue will be the Murwillumbah Civic Centre unless an alternative venue is resolved by Council.

3. Council advertises the ordinary Council meeting and Community Submission dates in the Tweed Link and on the Council website.

4. **The Business Paper will be provided to the councillors and uploaded to Council's Internet site on the Monday of the week preceding the council meeting.**
5. **The Code of Meeting Practice Version 2.2 be updated to reflect the change in meeting regularity and community submissions, as well as other resulting procedural issues.**
6. **The revised meeting and community submission format be reviewed at the February 2013 Council meeting.**

REPORT:

Dates and times for future Council meetings are required to be established and will be reviewed at the February 2013 meeting to gauge the suitability of the revised format.

The Code of Meeting Practice Version 2.2, Section 1.1.1 sets out how often the council meet. This section allows that ordinary council meetings are held on a regular basis, as decided by the council. Each council must meet at least ten (10) times per year, with each meeting being in a different month.

It is proposed that ordinary Council meetings be conducted within the following methodology and timeframe and this format be reviewed at the February 2013 Council meeting.

Ordinary Council Meetings

Thursday 15 November 2012
Thursday 13 December 2012
Thursday 24 January 2013
Thursday 14 February 2013

Meetings will commence at 6.45pm, which will be preceded by any Reserve Trust meeting/s that commence at 6.30pm. Meetings will conclude by 10pm.

The venue will be the Murwillumbah Civic Centre unless an alternative venue is resolved by Council.

Community Submissions

Community Submissions on items likely to be considered at a future council meeting will be conducted on each Thursday other than the day of the Council Meeting.

Community Submissions will be heard from 5.30pm to no later than 6.30pm, depending on the speakers. Submissions will be of 3 minute duration and councillors may have the opportunity to ask questions of the submitters.

Dates of Community Submissions leading up to the November 2012 Council meeting, commencing at 5.30pm and concluding no later than 6.30pm, will be:

Thursday 1 November 2012
Thursday 8 November 2012

Business Paper Provision

The Business Paper will be provided to the councillors and uploaded to Council's Internet site on the Monday of the week preceding the council meeting. For the November Council meeting, uploading will occur on Monday 5 November 2012.

OPTIONS:

1. Adopt the proposed Council meeting methodology and timeframe.
2. Propose an alternate Council meeting framework.

CONCLUSION:

Council is required to establish the dates and times for future Council meetings.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

This proposed meeting and community consultation format will require a revised version of the Code of Meeting Practice to be developed.

b. Budget/Long Term Financial Plan:

Expenditure associated with council meetings is included in the annual budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
 - 1.2.1.1 Compliance with Code of Conduct and Code of Meeting Practice

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

34 [TCS-CM] Community Membership on Council Committees

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Expressions of Interest were invited from members of the community to serve on nominated council committees for the term of the current Council, which expires in September 2016.

As a result of this Expression of Interest process an encouraging number of interested community members have nominated for consideration of being appointed to the committees. As there have been no Expressions of Interest received for membership of the Aboriginal Advisory Committee it is proposed that the functioning of this committee be placed in abeyance pending nominations being received. A further call will be made requesting Expressions of Interest.

The report outlines the nominations received and Council is now required to make the appointments to enable the functions of the committees to continue in a reasonably seamless manner, following the local government election.

RECOMMENDATION:

That Council makes the following appointments to the various committees:

- | | |
|---|--|
| 1. Audit Committee | Ross Bell and Colin Wight - Independent members
Keith Blinco - Alternate Independent member |
| 2. Australia Day Committee | Mayor - Council delegate
Brian Breckenridge, Susanne Breckenridge, Paul Compton, Graham Jackson, Bevan Wise, Donald MacDonald, Barbara Pudsey, Euan Walker, Lloyd Warren and Wendy Warren |
| 3. Equal Access Advisory Committee | Lee Clark, Una Cowdroy, Ronald Douglas, Suzanne Hudson, Alanah Hunter, Beverly Kelso, Milena Morrow and Christine Vannucci |
| 4. Floodplain Management Committee | Max Boyd AM, Felicia Cecil, Samuel Dawson, Robert Quirk, Paul Taylor |
| 5. Sports Advisory Committee | Merve Edwards, Tania Murdock, Robert Nienhuis, Carolyn Pickering, Leigh Tynan |
| 6. Tweed Coastal Committee | Tim Jack Adams, David Cranwell, Roger Graf, Rhonda James, Terry Kane, Michael Munday, Jason Pearson, Peter Sloan, John Harbison |

7. **Tweed River Art Gallery Advisory Committee** Robert Dagworthy AM, Louise Devine, Dr Daena Murray, Joanne Nimmo, Hobie Porter, Katerina Primikiri-Mackney, Stephen Senise, Lyn Stewart, Judith Sutton, Robert Appo, Shirley Kennedy
8. **Tweed River Committee** Max Boyd AM, Samuel Dawson, Nigel Greenup, Rhonda James, Claire Masters, Eddie Norris, Scott Petersen, Robert Quirk
9. **Tweed River Regional Museum Advisory Committee** Gary W Fidler, Janet Swift, Peter Budd, Sandra Flannery, Marlene O-Keefe
2. **Council thanks the applicants who expressed their interest in membership of the Committees.**

REPORT:

Expressions of Interest were invited from members of the community to serve on nominated council committees for the term of the current Council, which expires in September 2016.

As a result of this Expression of Interest process an encouraging number of interested community members have nominated for consideration of being appointed to the various committees.

As there have been no Expressions of Interest received for membership of the Aboriginal Advisory Committee it is proposed that the functioning of this committee be placed in abeyance pending nominations being received. A further call will be made requesting Expressions of Interest.

Councillors have been provided a copy of the individual expressions of interest for consideration.

The report outlines the nominations received; the preferred community membership on these committees and Council is now required to make the appointments to enable the functions of the committees to continue in a reasonably seamless manner, following the September 2012 local government election.

Committee 1:	Audit
Councillor	Cr Byrne
Delegate/s	Cr Armstrong
Membership:	2 + 1 alternate

At the Extraordinary Council Meeting of 20 September 2012 the appointment of a Council delegate to the Australia Day Committee was overlooked and should now be made. It is proposed that the councillor delegate to this committee will be the Mayor.

Committee 2:	Australia Day
Councillor	
Delegate/s	
Membership:	At Council's discretion

Committee 3:	Equal Access Advisory
Councillor	Cr Armstrong
Delegate/s	Cr Youngblutt
Membership:	8

Committee 4:	Floodplain Management Committee
Councillor	Cr Milne
Delegate/s	Cr Bagnall (alternate)
Membership:	At Council's discretion

Committee 5:	Sports Advisory Committee
Councillor Delegate/s	Cr Bagnall Cr Polglase (alternate)
Membership:	5

Committee 6:	Tweed Coastal Committee
Councillor Delegate/s	Cr Bagnall, Cr Longland Cr Milne (alternate)
Membership:	Groups and Localities

Committee 7:	Tweed River Art Gallery Advisory Committee
Councillor Delegate/s	Cr Polglase Cr Youngblutt
Membership:	At Council's discretion

Committee 8:	Tweed River Committee
Councillor Delegate/s	Cr Bagnall Cr Milne
Membership	Sector representation

Committee 9:	Tweed River Regional Museum Advisory Committee
Councillor Delegate/s	Cr Armstrong Cr Longland (alternate)
Membership:	5

Following the appointment by Council of the community members, the staff liaison officer of each of these committees will contact the members to advise the date and venue of the first committee meeting

OPTIONS:

1. Appoint the community members as proposed in the recommendation.
2. Amend the community members from those proposed in the recommendation.

CONCLUSION:

Council is now required to make the community member appointments to the various council committees to enable the functions of the committees to continue in a reasonably seamless fashion, following the local government election.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

A recommendation of an advisory committee is mostly used to assist the council in making informed decisions on complex matters.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.4 Involve communities including youth, elderly and aboriginal groups in decision making that affects their area and the wider Tweed community
- 1.2.4.3 Administer community based Advisory Committees

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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**35 [TCS-CM] National Sea Change Task Force Committee of Management
Nomination - NSW Representative**

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Following the September 2012 Local Government Election there now exists a vacancy as a representative for NSW councils on the National Sea Change Task Force Committee.

The Task Force is inviting nominations from Council, which close on Wednesday 31 October 2012.

RECOMMENDATION:

That Council does not nominate a Councillor as a New South Wales councils delegate to the National Sea Change Task Force.

REPORT:

Following the September 2012 Local Government Election there now exists a vacancy as a representative for NSW councils on the National Sea Change Task Force. Councillor Holdom was a delegate representing NSW councils until 2013.

Nominations from financial member councils are now being invited for a NSW representative to serve on the National Sea Change Taskforce until the Annual General Meeting to be held during the period July to November 2013. Committee meetings are held in conjunction with the Annual General Meeting, which is usually conducted in a Capital city and the Annual Conference. Monthly teleconferences are also conducted.

Councillors are invited to give consideration to nominating for the Taskforce and it is noted that travel costs and most accommodation costs of attending the two committee meetings are covered by the Taskforce. The nominations close on Wednesday 31 October 2012.

An election, if necessary, will be conducted after the close of nominations, with each member council entitled to vote for one representative to fill the vacancy.

OPTIONS:

1. No nomination be made and advice provided to the National Sea Change Task Force as such.
2. Nominate a councillor for consideration of being elected to the National Sea Change Task Force.

CONCLUSION:

For consideration by councillors as there is an additional time commitment to that of serving Tweed Shire.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Expenditure incurred as a representative of this Taskforce is covered by the taskforce.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.3 Prepare for climate change through adaptation and mitigation strategies

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Nomination form for National Sea Change Task Force (ECM 57561495)

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36 [TCS-CM] Pecuniary Interest Returns 2011/2012

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

The Pecuniary Interest Returns for the period 1 July 2011 - 30 June 2012 for Councillors and Designated Persons, are tabled in accordance with Sections 449 and 450A of the Local Government Act 1993.

The return period does not apply to the newly elected Councillors.

RECOMMENDATION:

That the Pecuniary Interest Returns for Councillors and Designated Persons for the period 1 July 2011 to 30 June 2012, as tabled, be received and noted.

REPORT:

Section 449 of the Local Government Act 1993 requires the General Manager to obtain returns disclosing interest of Councillors and designated persons.

Section 450(a)(2) of the Local Government Act 1993 requires the General Manager to table such returns at the first meeting of Council held after the last day for lodgement of the returns, that date being 30 September 2012.

The returns relate to the period 1 July 2011 - 30 June 2012 and are available for inspection by members of the public.

OPTIONS:

Not Applicable.

CONCLUSION:

That the Pecuniary Interest Returns for Councillors and Designated Persons for the period 1 July 2011 to 30 June 2012, as tabled, be received and noted.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

As per *Compliance and Reporting requirements* of Division of Local Government.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM. We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.4 Comply with Division of Local Government Strategic Task requirements
- 1.2.1.4.1 Undertake internal program and reporting to ensure Strategic Tasks are completed and timeframes met

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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37 [TCS-CM] Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors - Policy Review

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

In accordance with Section 252 of the Local Government Act 1993 Council is required each year (by 30 November) to adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities for the Mayor and Councillors in relation to discharging the functions of civic office:

"Council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions" (Section 253(1)).

The draft Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy Version 1.7, has been prepared following a review of Version 1.6 in accordance with the Division of Local Government's Circular 11-27, and changes to technology, such as mobile devices, multi-function devices and data. The amendments are highlighted using track changes and are designed to enhance the clarity of the Policy.

RECOMMENDATION:

That Council, under the provisions of Section 253(1) of the Local Government Act 1993, places on public exhibition for 28 days the Draft Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy Version 1.7.

REPORT:



Policy

**Councillors - Payment of Expenses and
Provision of Facilities for Mayor and
Councillors**

Version 1.7

Adopted by Council at its meeting on xxxxx

Minute No: xxx

Division: Technology and Corporate Services
Section: Corporate Governance
File Reference: N/A
Historical Reference: Version 1.6 adopted 13 December 2011
Version 1.5 adopted 16 November 2010

Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

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Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors

Part 1 - INTRODUCTION

1.1 Purpose

The purpose of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

The terminology of Councillor contained in this policy also applies to an Administrator/s of Council, where applicable and with any legislative modification.

1.2 Objectives and coverage of the Policy

In accordance with Section 439 of the Local Government Act 1993, Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under this Act or any other Act.

Furthermore, it is to ensure that the Councillors would not be financially or otherwise disadvantaged in undertaking their civic responsibilities.

1.3 Legislative Compliance

The Local Government Act 1993 has statutory requirements which describe what fees, expenses and facilities may be paid or provided to Councillors.

Information on the pertinent sections applicable to this policy is contained in the Division of Local Government's Circular 06-57 - Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors and Circular 09-36 Release of Revised Councillor Expenses and Facilities Guidelines.

~~The Draft Policy Version 1.6 was placed on public exhibition from Wednesday 26 October to Wednesday 23 November 2011. No submissions were received by Council during the public exhibition period.~~

1.4 ~~Other NSW Government policy provisions~~ **Making and Adoption of the Policy**

~~The Draft Policy Version 1.6 was placed on public exhibition from Wednesday 26 October to Wednesday 23 November 2011. No submissions were received by Council during the public exhibition period. There are a number of publications which provide assistance to Councillors in complying with the provisions of this policy.~~

Section 252 of the Local Government Act 1993 - Payment of expenses and provision of facilities

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Section 253 of the Local Government Act 1993 - Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

1.5 Division of Local Government Guidelines for payment of expenses and provisions of facilities

Section 252(5) of the Local Government 1993 states, the Council expenses policy must comply with these guidelines issued under Section 23A of the Act. The most recent guidelines were released in October 2009, with the most recent findings

from the review by the Division of Local Government on 21 September 2011, Circular 11-27

1.6 Model Code of Conduct

This policy is consistent with the Model Code of Conduct for Local Councils in NSW in particular with the use of Council resources.

1.7 Division of Local Government Circulars to Councils

Circular 05/08 Legal assistance for Councillors and Council employees
Circular 02/34 Unauthorised use of Council resources
Circular 09/36 Release of Revised Councillors Expenses and Facilities Guidelines
Circular 11/27 Findings from Review of Council Expenses and Facilities Policies

1.8 ICAC publications

No Excuse for Misuse, preventing the misuse of Council resources.

1.9 Definitions

Civic duties are defined as:

- Council and Committee Meetings;
- Community Meetings approved by the Mayor or General Manager;
- Meetings with the staff approved by the General Manager; and
- Conferences, seminars, training courses, formal and social functions where representing Council, approved by the Council, Mayor or General Manager;
- Meeting and corresponding with constituents in the course of discharging duties as Mayor and Councillor.

Part 2 - PAYMENT OF EXPENSES

2.1 General Provisions

2.1.1 Mayor and Councillors Annual Remuneration:

The Annual Remuneration for Mayor and Councillors, adopted by Council do not fall within the scope of this policy

2.1.2 No general expenses allowance

No annual, monthly or daily ~~general expense allowance or expenses type allowance payment~~ shall be payable ~~in any circumstances~~.

2.1.3 Monetary limits for all expenses

Monetary limits applying to this policy include:

- Telecommunications ~~Internet~~

Councillors will be provided with a mobile telephone or smart phone with email to assist in undertaking civic duties.

Council will meet the cost of providing the mobile telephone, maintenance, monthly service and access fees, and call charges from this mobile or landline, up to a maximum of \$400 per month for the Mayor and \$200 per month for other Councillors made in the conduct of their civic duties.

~~Individual Councillors must meet the cost of all non-business calls and any additional Council calls above the limits.~~

- Internet

Council will meet the cost ~~of~~ towards Internet charges involved in the conduct of the Mayor and Councillors civic duties, up to a maximum of \$90.00 per month.

- iPad/Mobile Device

Council will supply an iPad or mobile device with Wi-Fi and 3G connectivity with a 1Gb data plan.

- Multi-Function Device

~~Councillors may elect to the provision will meet the cost of providing of a multi-function device (MFD) the fax machine. Council will meet the cost of~~ maintenance and rental charges for one (1) home facsimile line, together with ~~fax~~ paper.

- Care ~~and other~~ related expenses

Councillors are entitled to the reimbursement of carer expenses, including childcare expenses and care of the elderly, disabled and/or sick immediate family members of Councillors that were necessary to enable Councillors to undertake their civic duties.

The reimbursement of expenses will be subject of a separate application by the affected Councillor in each instance, for the determination by the Mayor and General Manager.

Child/dependant care expenses are not to be reimbursed if the care is provided by a relative who ordinarily resides with the Councillor. A 'relative' is defined as a spouse, de-facto partner, parent, son, daughter, brother, sister or grandparent.

Childcare will only be provided to children of the Councillor up to and including the age of 16 years.

The maximum entitlement for such expenses is \$2,000 per annum.

- Other Related (away from home/office) Expenses

Incidental expenses incurred in attending related Council business, approved conferences, seminars, training and educational courses:

Facsimile	to and from Council Office or residence only
Internet Charges	maximum daily limit \$5.00
Laundry and Dry Cleaning	maximum daily limit \$10.00
Newspapers	maximum daily limit \$2.00
Taxi Fares	from transport destination to accommodation and/or conference venue
Parking Fees	include airport parking when plane travel is being used

Any other costs incurred by a Councillor in addition to the daily limits, are the responsibility of the individual Councillor.

When overnight accommodation is required, Councillors are to use their mobile telephones and not the hotel/motel room telephone for all calls including business and private. Special circumstances will be permitted, when mobile telephone reception does not allow the use of a mobile telephone.

- Meal Allowances

The daily limit for meals (including refreshments) when attending approved conferences, seminars, training and education courses will be in accordance with Australian Taxation Office allowance Guidelines.

2.1.4 No Private benefit unless payment made

Councillors should not obtain a private benefit from the provision of equipment and facilities, nor from travel bonuses such as "frequent flyer" schemes or any other such loyalty programs whilst on council business.

Councillors should not obtain private benefit from the provision of equipment and facilities, nor from travel bonuses such as 'frequent flyer' schemes or any other such loyalty programs while on council business. However it is acknowledged that incidental use of council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment to council.

Where more substantial private use does occur the Act provides that a payment may be made to cover the level of that private use (refer s252 (2)).

An example of more substantial private use requiring a payment being made would include, if the monthly data of 1Gb for the 3G data provision of council issued iPads or the monthly monetary limits of telephones (\$400 Mayor, \$200 Councillor) and/or internet usage of \$90 are exceeded.

2.1.5 No use of council resources for political purposes

Councillors are not to use facilities, equipment and services to produce election material or for any other political purposes.

2.1.6 Gifts and benefits given to be of token value

In circumstances where it is appropriate for councillors to give a gift or benefit (for example on a council business related trip or when receiving visitors), these gifts and benefits should be of token value and in accordance with Council's Code of Conduct (clause 8.1).

2.1.7 Approval and dispute resolution processes

This policy sets out in various areas the approval arrangements for all expenses. In particular, the attendance at seminars and conferences, training and educational courses, dinners and other non – council functions.

Should a dispute arise about the provision of expenses and facilities, or when an expense claim is not approved by the Mayor **and General Manager or nominee for Councillors, or the Deputy Mayor and General Manager or nominee for the Mayor**, then the disputed decision should be reviewed by the Chair of the Audit Committee, with a report to the full council meeting.

2.1.8 Reimbursement and reconciliation of expenses

Reimbursement of expenses shall only be made upon the production of appropriate receipts and tax invoices and the completion of the required claim forms.

~~All Reimbursement of claimable expenses must be approved by the General Manager are authorised and approved in the following manner:~~

- ~~▪ Mayor by the Deputy Mayor and Public Officer,~~
- ~~▪ Councillors by the Mayor and Public Officer.~~

All expenses being reimbursed must be in accordance with the provisions of this policy.

A Councillor seeking reimbursement of expenses must lodge a claim within three months of the expense being incurred.

2.1.9 Payment in advance

This policy does not provide for cash payments being advanced to Councillors in anticipation of expenses being incurred in the conduct of their civic duties.

2.2 Specific Expenses for Councillors (including limits)

2.2.1 Attendance at seminars and conferences

Attendance at conferences and seminars by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved conference or seminar.

- Registration Expenses

Including official luncheons, dinners and tours relevant to the conference, seminar or training course.

- Travel Expenses - Local or Outside Local Government area

As detailed within this [Policy](#).

- Accommodation Expenses

Accommodation for attendance at approved conferences, seminars and training courses will only be authorised on the following basis:

- venue where the conference, seminar and training course is being conducted;
- where venue is unavailable, then the alternative venue is up to a standard of four star NRMA rating;
- night before and after depending on the event and travel circumstance, such approval must be obtained in advance from the General Manager;
- Council to make the relevant accommodation booking.

- Meals and Other Incidental Expenses

Outlined in the establishment of monetary limits and standard provisions contained in this [Policy](#).

2.2.2 Attendance at training and educational courses

Attendance at training and educational courses by Councillors must be authorised in advance by a Council Resolution. An exception may occur in an emergency, then such attendance must be authorised by the Mayor and General Manager.

The exception will only apply to short term (1 day) events and be organised within the local region and facilitated by the Local Government ~~and~~ Shires Association, Independent Commission against Corruption or Division of Local Government.

Council will be responsible for the following expenses to be incurred by a Councillor in attending an approved training or educational courses.

- Registration Expenses

Including official luncheons, dinners and tours relevant to the training or educational course.

- Travel Expenses - Local or Outside Local Government area

As detailed within this [Policy](#).

- Accommodation Expenses

As detailed within this policy under attendance at seminars and conferences.

- Meals and Other Incidental Expenses

Outlined in the establishment of monetary limits and standards provisions contained in this policy.

2.2.3 Local travel arrangements and expenses

Councillors will be entitled to be reimbursed for travel from their home whilst undertaking civic duties at the rate per kilometre as set out in the State Award, Local Government (State) Award.

Where a Councillor must use a form of transport other than own vehicle for travel within the local government area, then such approval must be obtained in advance from the Mayor or General Manager.

2.2.4 Travel outside local government area including interstate travel

Councillors must obtain approval from Council for all travel outside of the Local Government Area, including interstate travel.

Councillors will be entitled to travel to official engagements at Council's expense by the most practical method, i.e. aircraft, train, bus, or Council vehicle or private vehicle.

~~Councillors when travelling by air will travel Economy Class or as determined by the General Manager.~~

~~All "Frequent Flyer" points accrued are to remain the property of Council.~~

Travel by Air:

- All flights should be the lowest available fare. Flight bookings should provide adequate time for the councillor to arrive and depart the scheduled event.
- The address to be used when booking a flight is: c/- Tweed Shire Council, Tumbulqum Road or PO Box 816 Murwillumbah.
- Third party booking agents are not to be used.
- Carbon offset payment is not to be selected.
- Seat allocation is not to be selected.
- Personal Frequent Flyer membership is not to be utilised as it constitutes a gift or benefit under the Code of Conduct.
- Travel and Baggage insurance will be considered on an as needs basis.

- Carry-on luggage is preferred and checked-in luggage will be considered on an as needs basis

Travel by Car

A Councillor who travels in his/her own vehicle will be reimbursed at the appropriate per kilometre rate or airfare whichever is the lower.

2.2.5 Legal expenses and obligations

Legal expenses for a Councillor may be either paid or reimbursed by the Council only if the matter is authorised by the Local Government Act 1993 either expressly or because it is supplemental or incidental to or consequential upon the exercise of its functions.

Council may therefore indemnify or reimburse the reasonable expenses of:

- a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (Section 731); or
- a Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act;
- A Councillor for proceedings before the Local Government Pecuniary Interest and Disciplinary Tribunal or investigative body and where the finding is not substantially unfavourable to the Councillor; or
- In the case of a conduct complaint made against a Councillor, legal costs will only be made available where a matter has been referred by a General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in Council's Code of Conduct.

Council will not indemnify or reimburse the legal expenses of a Councillor arising merely from something that a Councillor has initiated or done or did not involve the performance of their role as a Councillor during his or her term in office.

Council will not meet the costs of an action in defamation taken by a Councillor as a plaintiff in any circumstances.

Council will not meet the costs of a Councillor seeking advice in respect of possible defamation or in seeking a non-litigious remedy for possible defamation.

2.2.6 Insurance expenses and obligations

Councillors are to receive the benefit of insurance cover for:

- Personal Injury

Whilst on Council business, covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death and capital limits as specified in the Councillors and Officers Liability Insurance Policy. Also

covering permanent disablement, temporary total disability and temporary partial disability.

- Professional Indemnity

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty or function in the opinion of Council is bona fide and/or proper and is carried out in good faith, as required under Section 731 of the Local Government Act.

- Public Liability

For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors, being carried out in good faith.

2.2.7 Attendance at dinners and other non-council functions

Consideration may be given to meeting the cost of Councillors attendance at dinners and other non-Council functions which provide briefings to Councillors from key members of the community, politicians and business.

Approval to meet expenses will only be given when the function is relevant to Council's interest and attendance at the function is open to all Councillors.

No payment will be reimbursed for any component of a ticket to support attendance by councillors at political fund raising functions.
An additional payment to a registered charity may be acceptable as part of the cost of the function.

Councillors seeking reimbursement for this type of expense must have it approved by Council and not the General Manager.

2.2.8 Spouse and partner expenses

Council will not normally reimburse the expenses of spouses, partners and accompanying persons for attendance at any Council function.

Council may reimburse expenses of spouse, partners and accompanying persons in certain and special circumstances at any official Council function, with prior approval being sought from the Mayor and General Manager.

Accommodation (shared basis) will be met by Council, provided that there are no additional costs incurred by Council.

Mayor and Councillors must make separate arrangements for the payment of expenses incurred by a spouse or partner.

2.2.9 Councillors Contributing into Superannuation

In accordance with the Australian Taxation Office Interpretative Decision of 2007/205, provides that Council may enter into an arrangement with a Councillor

under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf.

2.3 Additional Mayoral Expenses

Additional expenses provided:-

2.3.1 Provision of a dedicated motor vehicle

A motor vehicle bearing no markings or identification will be provided for the sole use of the Mayor.

The motor vehicle is and shall remain the property of Council and shall be surrendered to Council by the Mayor in the event that the person is no longer the Mayor.

The Mayor is to be given unrestricted use of such vehicle including private use, with the Council servicing and maintaining such vehicle, paying registration and insurance (including full comprehensive cover) and providing fuel. Private use means that the Mayor and his/her spouse or other licensed driver (provided the Mayor or Mayor's spouse is in the car) or any other Council employee are allowed to drive the vehicle.

The type of vehicle that will be provided is to be at a standard in accordance with Council's Motor Vehicle Lease Policy, and sets a standard for energy efficiency.

The vehicle is to be replaced at the most economically beneficial time as determined by the Works Manager.

2.3.2 Provision of Credit Card

Provision of a Mastercard with a limit of \$5,000.

Part 3 - PROVISION OF FACILITIES

3.1 General Provisions

3.1.1 Provision of facilities generally

Council will make provision for, or provide facilities and equipment to each Councillor to ensure that they can undertake their civic duties in an appropriate manner. The facilities and equipment include are detailed below.

~~3.1.2 Telephone costs and expenses~~

~~Councillors will be provided with a fax machine to assist in undertaking civic duties.~~

3.1.2 Computer Facilities

Councillors will be provided with computer facilities (options include computer, iPads or mobile device, MFD, and data) to assist in undertaking civic duties. Councillors will have the option to utilise their own equipment such as PC, mobile phone, broadband, printer, modem/router, and will be reimbursed for council

business use following the submission of an expense claim in accordance with the monetary limits of all expenses.

3.1.43 Postage of Official Councillor Correspondence

Councillors will be reimbursed for official postage, provided expenses can be verified and where it is impractical to use the Council's own mail system.

Applications for reimbursement of postage expenses must contain verification information and be authorised by the ~~General Manager~~ Deputy Mayor and Public Officer for the Mayor, and Mayor and Public Officer for Councillors.

3.1.45 Stationery

Provision of personalised Councillor letterhead and envelopes exclusively for Council related business.

3.1.65 Business cards

Provision of 250 business cards (replacement on request)

3.1.76 Christmas cards

Maximum of 100 per year

3.1.87 Name badges

Councillors to be provided with a name badge

3.1.98 Filing cabinet

Councillors to be provided with a home filing cabinet if required.

Filing cabinet is to be returned if the person ceases to be a Councillor

3.1.409 Meetings meals and refreshments

Provision of meals and refreshments associated with Council, committee and working party meetings where appropriate

3.1.1044 Meeting rooms/ Councillor Room

Provision of meeting room facilities, including telephone, computer network facilities and access to a photocopier in the Administration Centre for the purpose of Council, committee and working party meetings and for meeting with constituents.

3.1.4211 Secretarial support

Provision of secretarial support, as necessary for Councillors to undertake their civic duties.

~~3.1.13 Private use of equipment and facilities~~

~~A Councillor must not use any of the facilities allocated by Council for their private use.~~

~~A Councillor may use their mobile telephone or facsimile machine for their private use however payment is to be made to Council for such use.~~

~~Any contravention of this policy will result in the matter being reviewed against the provisions of Council's Code of Conduct.~~

3.2 Additional Mayoral Equipment and Facilities

3.2.1 Other equipment, facilities and services

Other equipment, facilities and services that are to be provided by Council for the use of the Mayor are as follows:

- An experienced person suitably qualified to provide secretarial support to the Mayor.
- Mayoral letterhead, envelopes and stationery generally
- Where appropriate assistance with the organisation of functions, meetings and briefings to which the Mayor is invited to attend.
- A furnished office will be provided at the Council Administration Office, to enable the Mayor to undertake the civic duties appropriate to that position.
- Limited refreshments will be provided in the Mayoral Office for entertainment purposes.
- An allotted parking space will be provided at the Council Administration Offices for the parking of the Mayoral vehicle.

PART 4 - OTHER MATTERS

4.1 Acquisition and returning of facilities and equipment by Councillors

Councillors are to return to Council, where appropriately practicable, after the completion of their term of office or entering extended leave of absence or at the cessation of their civic duties all facilities and equipment that have been allocated by Council.

Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.

4.2 Status of the Policy

The provisions of the Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors shall remain valid until revoked or amended by Council.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council, under the provisions of Section 253(1) of the Local Government Act 1993, places on public exhibition for 28 days the Draft Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy Version 1.7.

COUNCIL IMPLICATIONS:

a. Policy:

Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy Version 1.6 to be replaced with Version 1.7.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
 - 1.2.1.5 Council Policies are compliant with legislation and guidelines
 - 1.2.1.5.1 Council policies reviewed, reported to Council and placed on public exhibition as required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

38 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 30 September 2012

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies. Council had **\$173,090,301** invested as at **30 September 2012** and the accrued net return on these funds was **\$726,834** or **5.04%** annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 30 September 2012 totalling \$173,090,301.50 be received and noted.

REPORT:

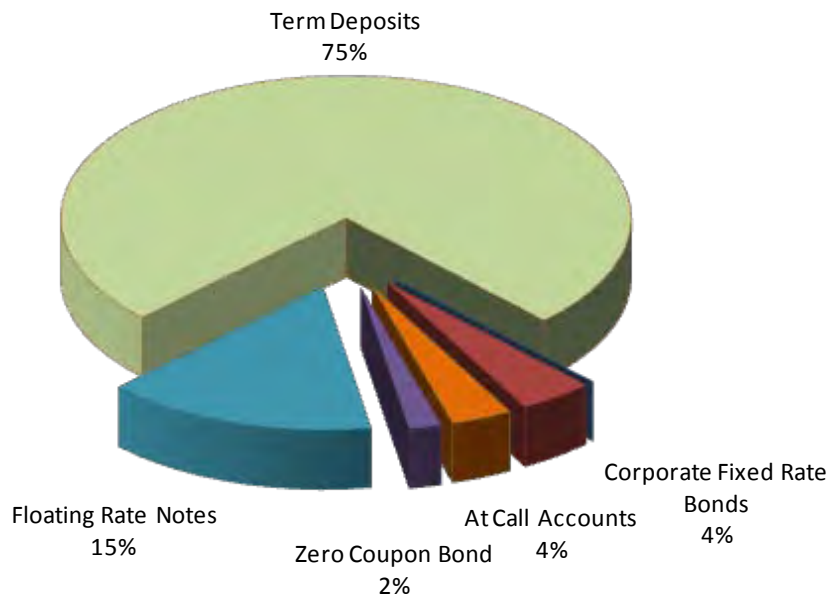
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies. Council had **\$173,090,301** invested as at **30 September 2012** and the accrued net return on these funds was **\$726,834** or **5.04%** annualised for the month.

1. Restricted Funds as at 1 July 2012

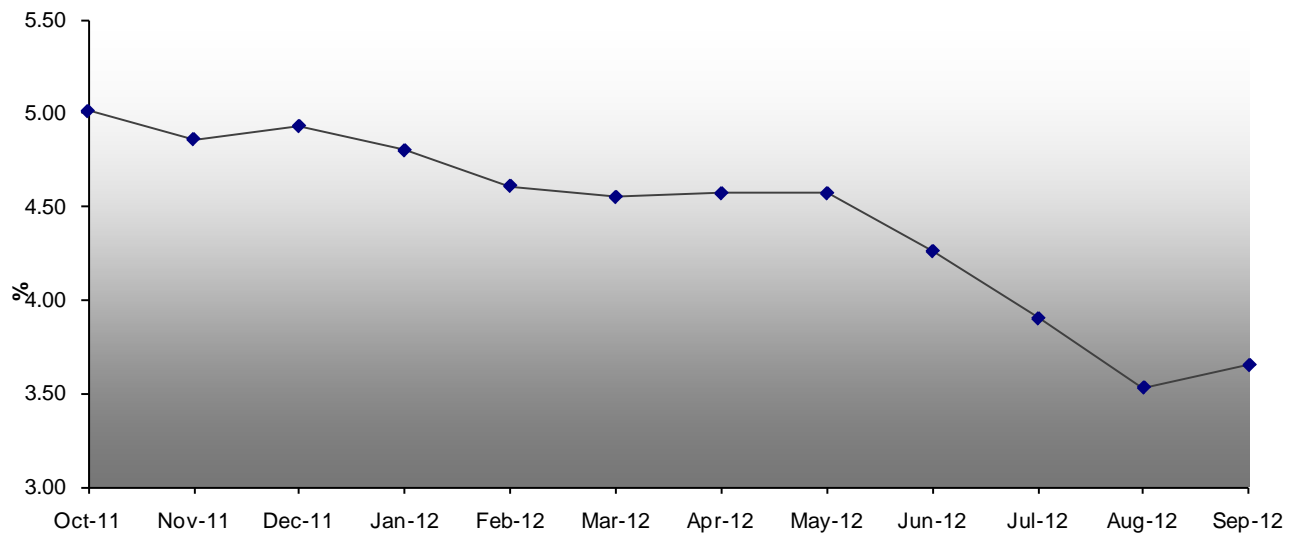
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
Externally Restricted	2,441	15,262	51,519	69,222
Crown Caravan Parks	14,980			14,980
Developer Contributions	24,720	6,805		31,525
Domestic Waste Management	9,221			9,221
Grants	4,781			4,781
Internally Restricted	21,294			21,294
Employee Leave Entitlements	4,414			4,414
Grants	6,013			6,013
Unexpended Loans	9,753			9,753
Total	97,617	22,067	51,519	171,203

Note: Restricted Funds Summary updated September 2012

2. Investment Portfolio by Category



3. Investment Rates - 90 Day Bank Bill Rate



4. Direct Securities (Bonds & Floating Rate Notes)

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date
AMP Bank	2,000,000.00	2,005,282.00	4.75	Bond - Floating Rate	06/06/2014
ANZ Banking Group Limited	1,000,000.00	1,065,260.00	8.65	Bond - Fixed Rate	22/04/2013
Bank of Queensland	2,000,000.00	2,009,300.00	5.05	Bond - Floating Rate	06/06/2013
Commonwealth Bank	4,000,000.00	3,180,000.00	7.25	Bond - Fixed Rate	22/01/2018
Commonwealth Bank	1,000,000.00	990,000.00	4.56	Bond - Floating Rate	24/12/2015
Commonwealth Bank	498,250.00	495,000.00	4.56	Bond - Floating Rate	24/12/2015
Commonwealth Bank	1,000,000.00	1,014,600.00	4.76	Bond - Floating Rate	02/08/2016
Commonwealth Bank	2,000,000.00	2,029,200.00	4.76	Bond - Floating Rate	02/08/2016
Commonwealth Bank	492,500.00	495,000.00	4.56	Bond - Floating Rate	15/12/2015
Heritage Bank	1,325,000.00	1,397,875.00	7.25	Bond - Fixed Rate	20/06/2017
ING Bank (Australia) Limited	2,000,000.00	2,136,660.00	7.00	Bond - Fixed Rate	22/03/2016
ING Bank (Australia) Limited	2,000,000.00	2,045,080.00	5.50	Bond - Fixed Rate	03/09/2015
Macquarie Bank Limited	1,000,000.00	1,002,980.00	5.47	Bond - Floating Rate	13/03/2014
National Australia Bank	1,000,000.00	1,018,130.00	4.83	Bond - Floating Rate	05/11/2015

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date
National Australia Bank	2,000,000.00	2,015,460.00	4.55	Bond - Floating Rate	21/06/2016
National Australia Bank	1,000,000.00	1,017,090.00	4.73	Bond - Floating Rate	19/12/2014
RaboDirect	1,000,000.00	1,001,550.00	5.24	Bond - Floating Rate	27/07/2016
RaboDirect	1,000,000.00	1,001,550.00	5.24	Bond - Floating Rate	27/07/2016
RaboDirect	1,000,000.00	1,008,910.00	4.58	Bond - Floating Rate	20/04/2015
Suncorp Metway Bank Limited	2,000,000.00	2,062,440.00	4.75	Bond - Fixed Rate	06/12/2016
Suncorp Metway Bank Limited	2,000,000.00	2,004,800.00	4.73	Bond - Floating Rate	26/05/2014
Suncorp Metway Bank Limited	1,000,000.00	1,011,990.00	5.01	Bond - Floating Rate	23/04/2015
Suncorp Metway Bank Limited	2,000,000.00	2,023,980.00	5.01	Bond - Floating Rate	23/04/2015
Westpac Banking Corporation	2,000,000.00	2,029,624.50	4.71	Bond - Floating Rate	09/11/2015
Westpac Banking Corporation	1,000,000.00	1,028,540.00	5.26	Bond - Floating Rate	20/02/2017
Totals	37,315,750.00	37,090,301.50	5.31		

ABS = Asset Backed Security
 Bond = Fixed Rate Bond
 CDO = Collateralised Debt Obligation
 FRN = Floating Rate Note

5. Term Deposits

TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
03-Sep-12	03-Oct-12	National Australia Bank (matures Sept 2013)	3,000,000.00	30	5.20
04-Jul-12	04-Oct-12	Bank of Queensland (matures Apr 2014)	2,000,000.00	92	5.06
10-Jul-12	10-Oct-12	Westpac Bank (matures Apr 2016) quarterly interest	2,000,000.00	92	4.86
11-Jul-12	11-Oct-12	Westpac Bank (Jan 2016)	8,000,000.00	92	4.81
17-May-12	16-Oct-12	Bank of Queensland (10/12)	4,000,000.00	152	5.45
19-Jun-12	23-Oct-12	Bank of Queensland (matures Oct 2012)	4,000,000.00	126	5.25
21-Mar-12	24-Oct-12	ING Bank (RIMSEC)	2,000,000.00	217	6.10
31-Aug-12	30-Oct-12	Bank of Queensland (matures Oct 2012)	2,000,000.00	60	5.00
14-Aug-12	06-Nov-12	ME Bank	1,000,000.00	84	5.10
11-Nov-11	11-Nov-12	RaboDirect (Curve) annual interest	1,000,000.00	366	6.40
11-Aug-12	12-Nov-12	National Australia Bank (RBS) (matures Aug 2015) quarterly interest	2,000,000.00	91	5.61
13-Aug-12	12-Nov-12	Bank of Queensland (matures Nov 2013)	2,000,000.00	91	5.15
17-Jul-12	13-Nov-12	Bank of Queensland	3,000,000.00	119	5.15
07-Aug-12	13-Nov-12	Adelaide Bendigo Bank (Aug 2012)	2,000,000.00	98	5.10
16-Aug-12	16-Nov-12	Westpac Bank (Nov 2014)	2,000,000.00	92	5.00
20-Aug-12	19-Nov-12	Westpac Bank (Feb 2016)	2,000,000.00	91	4.82
22-May-12	20-Nov-12	Suncorp Bank	3,000,000.00	182	5.40
24-Jul-12	20-Nov-12	National Australia Bank	2,000,000.00	119	5.07
21-Aug-12	20-Nov-12	Heritage Bank	2,000,000.00	91	5.10
30-May-12	27-Nov-12	Rural Bank (Curve)	2,000,000.00	181	5.34
27-Aug-12	27-Nov-12	National Australia Bank (RBS) (Aug 2015)	2,000,000.00	92	4.83
31-Aug-12	30-Nov-12	IMB (Dec 2013)	2,000,000.00	91	4.90
01-Jun-12	04-Dec-12	National Australia Bank	2,000,000.00	186	5.23
04-Sep-12	04-Dec-12	ING Bank (RIMSEC) (matures Sept 2013)	1,000,000.00	90	5.10

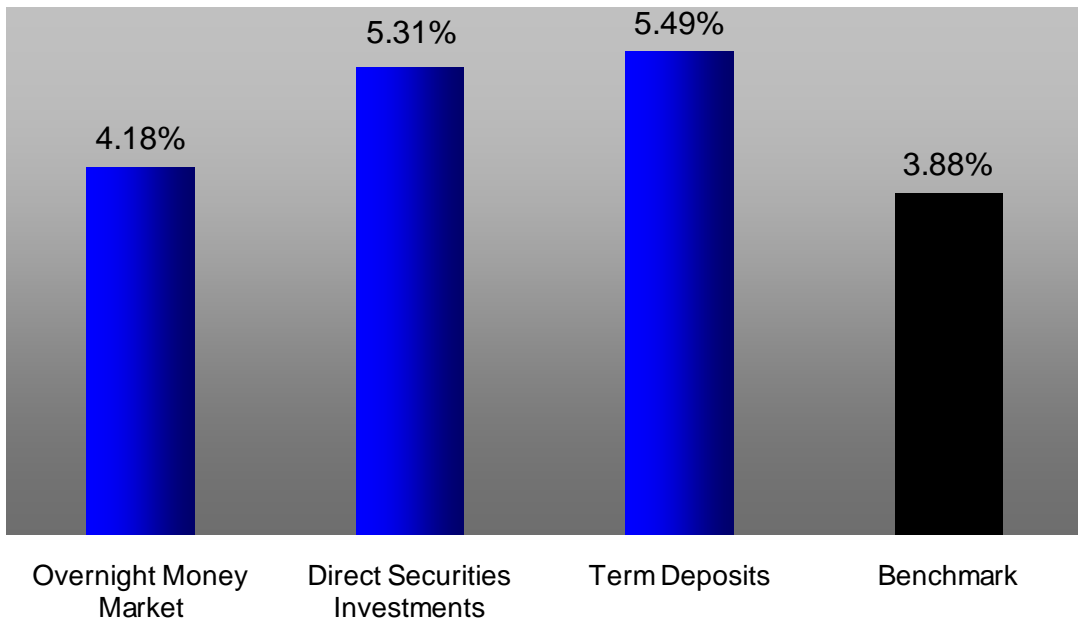
TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
10-Sep-12	10-Dec-12	Investec Bank (RIMSEC) (matures Jun 2014)	1,000,000.00	91	5.53
08-Dec-11	11-Dec-12	National Australia Bank (Dec 2012)	2,000,000.00	369	6.95
31-Aug-12	11-Dec-12	Newcastle Permanent Building Society	2,000,000.00	102	5.10
11-Sep-12	11-Dec-12	ING Bank (RIMSEC Sept 2012)	2,000,000.00	90	5.11
18-Sep-12	18-Dec-12	ME Bank (Curve)	1,000,000.00	91	5.05
03-Jul-12	28-Dec-12	Westpac Bank (Nov 2014)	2,000,000.00	178	5.20
03-Jul-12	08-Jan-13	National Australia Bank	2,000,000.00	189	5.17
10-Jul-12	15-Jan-13	Suncorp Bank	3,000,000.00	189	5.15
03-Sep-12	15-Jan-13	Rural Bank (RIMSEC)	2,000,000.00	134	5.05
11-Sep-12	22-Jan-13	Rural Bank (Curve)	2,000,000.00	133	5.00
31-Jul-12	29-Jan-13	Suncorp Bank (Jan 2013)	5,000,000.00	182	5.18
31-Jul-12	05-Feb-13	Bank of Queensland	2,000,000.00	189	5.20
07-Aug-12	05-Feb-13	Suncorp Bank	4,000,000.00	182	5.18
03-Sep-12	05-Feb-13	Rural Bank (Curve)	2,000,000.00	155	5.05
07-Feb-12	07-Feb-13	RaboDirect (Curve) (Feb 2015) annual interest	1,000,000.00	366	6.00
28-Aug-12	26-Feb-13	Suncorp Bank	1,000,000.00	182	5.05
04-Mar-12	05-Mar-13	Westpac Bank annual interest (Mar 2013)	2,000,000.00	366	6.35
29-Aug-12	05-Mar-13	Bank of Queensland	3,000,000.00	188	5.20
13-Aug-12	12-Mar-13	ING Bank (RIMSEC)	2,000,000.00	211	5.17
22-Mar-11	19-Mar-13	Adelaide Bendigo Bank (Mar 2013) interest on maturity	1,000,000.00	728	6.50
14-Aug-12	19-Mar-13	ING Bank (Curve)	2,000,000.00	217	5.19
18-Sep-12	19-Mar-13	ME Bank	4,000,000.00	134	5.02
22-Mar-12	26-Mar-13	National Australia Bank (Mar 2013) annual interest	1,000,000.00	369	6.38
15-Aug-12	26-Mar-13	ING Bank(RIMSEC)	4,000,000.00	223	5.23
21-Aug-12	23-Apr-13	ING Bank (Curve)	1,000,000.00	245	5.12
28-Aug-12	23-Apr-13	ING Bank (RIMSEC)	2,000,000.00	238	5.15
17-May-11	21-May-13	Investec Bank (May 2013) interest on maturity	1,000,000.00	735	7.10

TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
23-May-12	28-May-13	RaboDirect (FIIG)	2,000,000.00	369	5.35
21-Jul-12	23-Jul-13	Suncorp Bank (RBS) (July 2013) annual interest	1,000,000.00	366	7.30
26-Jul-12	26-Jul-13	RaboDirect (Curve) (Jul 2015)	1,000,000.00	365	5.20
26-Jul-12	26-Jul-13	RaboDirect (Curve) (Jul 2016)	1,000,000.00	365	5.40
07-Aug-12	06-Aug-13	Investec Bank (RIMSEC) (matures Aug 2013)	1,000,000.00	364	5.42
12-Aug-10	13-Aug-13	Bank of Queensland (RBS) (Aug 2013) annual interest	2,000,000.00	1097	7.05
01-Sep-10	02-Sep-13	National Australia Bank (Sept 2013) annual interest	4,000,000.00	1098	6.52
30-Aug-12	03-Sep-13	AMP Bank (CURVE) (Sept 2013) annual interest	500,000.00	365	6.00
30-Aug-12	10-Sep-13	AMP Bank (CURVE) (Sept 2013) annual interest	500,000.00	365	6.00
22-Mar-11	25-Mar-14	Bank of Queensland (Mar 2014) annual interest	1,000,000.00	1099	6.75
22-Mar-11	22-Mar-16	RaboDirect (RIMSEC) (Mar 2016) annual interest	1,000,000.00	1827	7.15
			130,000,000.00		5.49

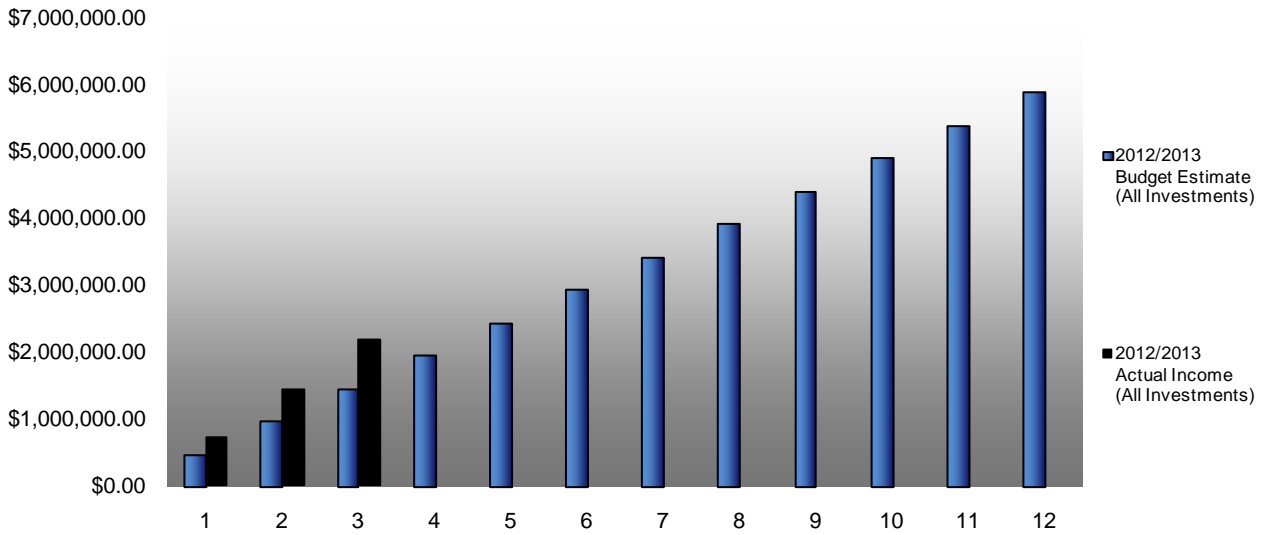
6. Performance by Category

Category	Face Value	Market Value	Average Return	Above or (Below) 30 day BBSW Benchmark
Overnight Money Market	\$6,000,000.00	\$6,000,000.00	4.18%	0.29%
Direct Securities Investments	\$37,315,750.00	\$37,090,301.50	5.31%	1.43%
Term Deposits	\$130,000,000.00	\$130,000,000.00	5.49%	1.61%
Benchmark	\$173,315,750.00	\$173,090,301.50	3.88%	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%	1.17%	A-1+	100%	14.01%
AA Category	100%	20.43%	A-1	100%	21.60%
A Category or below	60%	7.00%	A-2	60%	22.76%
BBB Category or below	20%	4.09%	A-3	0%	0.00%
Unrated	10%	5.44%	Unrated	10%	3.50%

9. Term to Maturity

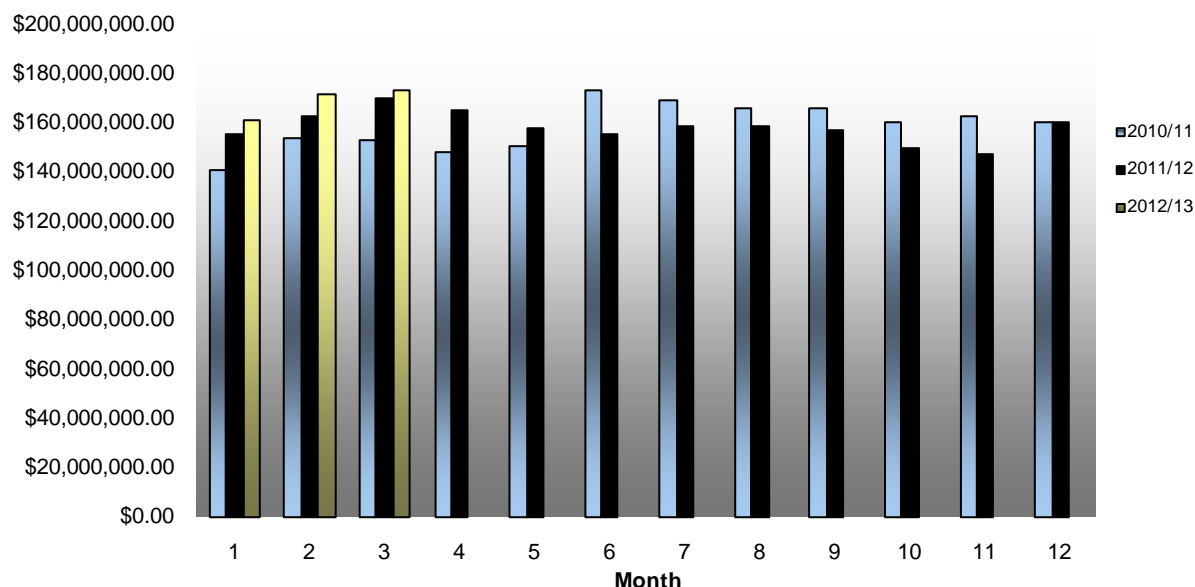
Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	61.87%	Minimum 40% of portfolio
Between 365 days and 2 years	7.59%	Maximum 60%
Between 2 years and 5 years	28.21%	Maximum 35%
Between 5 years and 7 years	2.33%	Grandfathered investment.

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

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
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

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	Banora Point West/Tweed Heads South Open Space	4,201,168	-
02	Banora Point Western Drainage	538,286	-
03	Banora Point West/ Tweed Heads South Community Facilities	39,137	-
04	Tweed Road Contribution Plan	10,379,251	4,151
05	Local Area Open Space	870,502	(6,204)
06	Street Tree Planting in Residential Areas	129,136	-
07	West Kingscliff Opens Space & Drainage	494,600	130
10	Cobaki Lakes Open Space & Community Facilities	(1,005)	-
11	Shire Wide Library Facilities	1,367,433	894
12	Bus Shelters	53,626	68
13	Eviron Cemetery	(40,237)	135
14	Mebbin Springs Subdivision - Rural Road Upgrading	81,020	-
15	Community Facilities	325,553	1,325
16	Emergency Facilities - Surf Lifesaving	328,461	(1,696)
18	Council Administration & Technical Support	838,586	(12,306)
19	Kings Beach/Casuarina/Kings Forest	252,464	(3,571)

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
20	Seabreeze Estate - Open Space	676	
21	Terranora Village Estate - Open Space & Community Facilities	27,739	-
22	Shirewide Cycleways	360,088	-
23	Shirewide Carparking	2,000,006	-
25	Salt Development - Open Space & Car Parking	907,985	-
26	Shirewide/Regional Open Space	1,004,459	1,809
27	Tweed Heads Masterplan Local Open Space & Streetscaping	93,380	-
28	Seaside City	20,547	-
90	Footpaths & Cycleway	-	-
91	DCP14	96,960	-
92	Public Reserve Contributions	121,607	-
95	Bilambil Heights	474,140	-
Total		24,965,568	(15,265)

13. Economic Commentary

Australian Cash Rate

The Reserve Bank of Australia (RBA) reduced the official cash rate to 3.25% pa at its 2 October meeting.

The outlook for growth in the world economy has softened over recent months, with estimates for global GDP being edged down, and risks to the outlook still seen to be on the downside. Economic activity in Europe is contracting, while growth in the United States remains modest. Growth in China has also slowed, and uncertainty about near-term prospects is greater than it was some months ago. Around Asia generally, growth is being dampened by the more moderate Chinese expansion and the weakness in Europe.

Key commodity prices for Australia remain significantly lower than earlier in the year, even though some have regained some ground in recent weeks. The terms of trade have declined by over 10 per cent since the peak last year and will probably decline further, though they are likely to remain historically high.

Financial markets have responded positively over the past few months to signs of progress in addressing Europe's financial problems, but expectations for further progress remain high. Low appetite for risk has seen long-term interest rates faced by highly rated sovereigns, including Australia, remain at exceptionally low levels. Nonetheless, capital markets remain open to corporations and well-rated banks, and Australian banks have had no difficulty accessing funding, including on an unsecured basis. Share markets have generally risen over recent months.

In Australia, most indicators available for this meeting suggest that growth has been running close to trend, led by very large increases in capital spending in the resources sector. Consumption growth was quite firm in the first half of 2012, though some of that strength was temporary. Investment in dwellings has remained subdued, though there have been some tentative signs of improvement, while non-residential building investment has also remained weak. Looking ahead, the peak in resource investment is likely to occur next year, and may be at a lower level than earlier expected. As this peak approaches it will be important that the forecast strengthening in some other components of demand starts to occur.

Labour market data have shown moderate employment growth and the rate of unemployment has thus far remained low. The Bank's assessment, though, is that the labour market has generally softened somewhat in recent months.

Inflation has been low, with underlying measures near 2 per cent over the year to June, and headline CPI inflation lower than that. The introduction of the carbon price is affecting consumer prices in the current quarter, and this will continue over the next couple of quarters. Moderate labour market conditions should work to contain pressure on labour costs in sectors other than those directly affected by the current strength in resources. This and some continuing improvement in productivity performance will be needed to keep inflation low as the effects of the earlier exchange rate appreciation wane. The Bank's assessment remains, at this point, that inflation will be consistent with the target over the next one to two years.

Interest rates for borrowers have for some months been a little below their medium-term averages. There are tentative signs of this starting to have some of the expected effects, though the impact of monetary policy changes takes some time to work through the economy. However, credit growth has softened of late and the exchange rate has remained higher than might have been expected, given the observed decline in export prices and the weaker global outlook.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with Division of Local Government guidelines with 79% of the portfolio held in term deposits or cash at call. Term deposit and bond rates have fallen considerably but continue to provide above benchmark returns while minimizing capital risk.

All investment categories including cash at call out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 1.64% 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 Summary as at 30 September 2012

GENERAL FUND

CORPORATE FIXED RATE BONDS	10,489,440.00	
FLOATING RATE NOTES	26,600,861.50	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	50,000,000.00	
CALL ACCOUNT	6,000,000.00	93,090,301.50

WATER FUND

TERM DEPOSITS	32,000,000.00	
FUND MANAGERS	0.00	32,000,000.00

SEWERAGE FUND

TERM DEPOSITS	48,000,000.00	
FUND MANAGERS	0.00	48,000,000.00

TOTAL INVESTMENTS		173,090,301.50
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It should be noted that the General Fund investments of \$93 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:

Investment Version 1.6.

b. Budget/Long Term Financial Plan:

In accordance with Budget Projections.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.35 Council funds are invested in accordance with legislation requirements and Council Policy
- 1.3.1.35.1 Council funds are invested to provide maximum returns whilst having due regard to risk

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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39 [TCS-CM] Budget Review - 2012/2013 Carry Over Works

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

This report provides details of the funds to be carried forward from 2011/2012 to the 2012/2013 budget.

The carried forward works represent those projects/services that could not be completed in 2011/2012 for a variety of reasons. The funding of these works fall into the following categories:

- Unexpended Loans
- Reserves Funds
- Grants
- Section 94
- Sales

Within these funding sources, the carry over works from the 7 year infrastructure and services plan, and the 2004/2005 rate variation, have been separately identified.

RECOMMENDATION:

That Council:

- 1. Adopts the Budget Review 2011/2012 Carry Over Works.**
- 2. Votes for the expenditure and income, as detailed within the report, for the year ending 30 June 2013.**

REPORT:

This report provides details of the funds to be carried forward from 2011/2012 to the 2012/2013 budget.

The carried forward works represent those projects/services that could not be completed in 2011/2012 for a variety of reasons. The funding of these works fall into the following categories:

- Unexpended Loans
- Reserves Funds
- Grants
- Section 94
- Sales

Within these funding sources, the carry over works from the 7 year infrastructure and services plan, and the 2004/2005 rate variation, have been separately identified.

In/Ex	Description	Carry over amount
General Expenses		
Ex	Innovation Fund	94,838
Ex	Core Business Systems	80,000
Ex	Aerial Photography	70,000
Ex	Information Technology	17,557
Ex	Software Maintenance	141,755
Ex	Records Storage	545,407
Ex	Richmond Tweed Council Co - operation	576
Ex	Provision for Hardware Replacement	241,646
Ex	Records Shed	30,000
Ex	Hardware Maintenance	20,000
Ex	Asset Management Systems	76,703
Ex	Risk Management Program	37,431
Ex	Drug & Alcohol Testing	1,000
Ex	Tab Safe Campaign	217
Ex	Health and Safety Initiatives Fund	17,910
Ex	Traineeships & Apprenticeships	59,575
Ex	Civic Buildings Asset Mgt	53,832
Ex	Pt Danger Lighthouse Asset Mgt	6,037
Ex	Murwillumbah Airfield	105,000
Ex	Western Hangar Development	58,281
Ex	Economic Development Future Fund	97,603
Ex	Tweed Heads Masterplan	10,000
Ex	CCTV	31,584
Ex	Tweed Vally Transport Info Service	1,000
Ex	Mooball Planning Proposal	19,960
Ex	Land Purchase Open Space	84,635
Ex	Rezoning Application Fees	3,012
Ex	Koala Management Plan	25,645
Ex	Local Growth Management Plans	21,304

In/Ex	Description	Carry over amount
Ex	Tweed Aboriginal Heritage Study Years 1-2	73,000
Ex	Stage 1 Shirewide LEP	2,389
Ex	Tweed City Centre LEP	16,011
Ex	Developer funded studies - expenditure	1,688
Ex	Fire Mitigation Works Fund 2010-2011	1,554
Ex	Donation To RFS	17,301
Ex	Bush Fire Control Expenses	286,378
Ex	Tweed Heads Auditorium	6,369
Ex	Newell Park Upgrade	22,293
Ex	Acquisitive Prize BAP	4,245
Ex	Prizes	5,036
Ex	1864 Projects - Guppy	5,416
Ex	Art Gallery Construction - Olley Extension	231,230
Ex	Acquisitive Prize Community Printmakers	5,478
Ex	Goorimahbah Public Art	144,816
Ex	Mezzanine floor in store room	8,585
Ex	Library Grant Exp	157,410
Ex	Motor Transport Western Villages Bus Service	1,031
Ex	Museum / Historical Operations	49,695
Ex	M'Bah Museum Capital	34,079
Ex	Community Option Program - Based Heritage Study	786
Ex	Migration – Final Stage	9,737
Ex	Visions Macleod Touring Grant	37,272
Ex	Healthy Ageing Strategy	10,000
Ex	Northern Rivers Carpool	7,468
Ex	Safer Community Compact Tweed Heads/Coolangatta	14,924
Ex	Access Funding	56,551
Ex	Anti Drugs Campaign	4,881
Ex	Disability Action Plan	18,688
Ex	Community Safety	15,000
Ex	COP Operating Costs	244,329
Ex	Social Development Fund	15,936
Ex	SAS	9,170
Ex	COMPACKS Expenditure	420,120
Ex	SUPPORT COORDINATION (OPC) Expenses	216,408
Ex	Podiatry	5,023
Ex	Youth Week 2011	973
Ex	Banora Point Community Centre	60,348
Ex	Banora Pt Community Centre renovations	43,000
Ex	Seniors Information Hub	10,175
Ex	CDSE Doon Doon Community Project	577
Ex	International Day for People with a Disability	10,000
Ex	Waste & Sustainability Improvement Payment 2010-2011	163,339
Ex	Waste & Sustainability Improvement Payment 2011-2012	209,912
Ex	Raising Illegal Dumping Awareness 2011-2012	30,766
Ex	Tweed Valley Crematorium	579,606

In/Ex	Description	Carry over amount
Ex	Chillingham Village Common	9,441
Ex	Casuarina Blossom Bat Rehabilitation	48,009
Ex	Terranora Village Open Space Embellishment	145,374
Ex	Pottsville Env Park (Bond Inc)	146,470
Ex	Asset maintenance trades plant replacement	16,036
Ex	Krekelberg Environmental Park	2,673
Ex	Insect/Vermin Cnt Other	5,000
Ex	USP Bray Park Wetland & Blacks Drain	14,482
Ex	Env Trust Improve Urban & Peri Urban Bushland	46,094
Ex	Coastal Creeks – Australian Research Council	19,048
Ex	Riparian Vine Weed Mapping & Suppress	11,379
Ex	Northern Rivers Coastal Management Projects	2,493
Ex	Environmental Capacity of Tweed Valley Farmland	3,064
Ex	Salt Dune Rehabilitation	26,860
Ex	NRCMA Community Support Project Tweed	1,503
Ex	NRCMA Development of a model Biodiversity DCP ISB	25,387
Ex	Recovery of Threaten Species in Priority Implementation Area	48,259
Ex	Protection and Restoration of the Pottsville Wetlands	137,030
Ex	Koala Connections NSW Environmental Trust	114,886
Ex	Protection of Littoral Rainforest at Pottsville Spit	7,225
Ex	Enhancing Biodiversity in the Upper Rous River Catchment	1,800
Ex	Linking Koala Habitat & Endangered Ecological Communities	300,000
Ex	Significant Tree Identification	27,821
Ex	Koala Beach	54,971
Ex	Parry Street	90,000
Ex	R2R Ourimbah Road	700,000
Ex	Black Spot Kyogle Rd 3km West of Kunghur	110,646
Ex	River Street	160,000
Ex	R2R Kyogle Road Snake Creek Bridge Approach	73,671
Ex	Tumbulgum Road	304,863
Ex	Black Spot 11/12 Tweed Valley Way centre wire fencing	630,753
Ex	Clothiers Creek Road	195,000
Ex	Dulguigan Road	242,980
Ex	West End St M'bah	45,000
Ex	Murwillumbah Street	149,184
Ex	Bilambil Road	150,000
Ex	Crescent Street	89,783
Ex	Chinderah Bay Drive	275,000
Ex	Kennedy Drive	243,240
Ex	Tweed Street Bilambil Heights	165,000
Ex	Local roads resurfacing	110,000
Ex	Federal Assistance Grant Maintenance	1,367,162
Ex	Repair Prog Funding	10,529
Ex	Black Spot Funding	3,465
Ex	Kyogle Rd Palmers Rd to Doon Doon Ck Br	65,717
Ex	Federal Blackspot Program 2011-2012 - Scenic Drive Guardrail	8,331

In/Ex	Description	Carry over amount
Ex	School Zone Signage Tyalgum Road Eungella 2011-2012	607
Ex	Cycleways Program	73,753
Ex	Charltons Bridge	419,309
Ex	Stafford/River St	204,479
Ex	Banner Lane	120,000
Ex	Tamarind Avenue	893,514
Ex	Drainage construction	219,900
Ex	Depot compliance expenditure	80,000
Ex	Design Capital Purchases	5,865
Ex	Project Management System	9,358
Ex	Kirkwood Road Stage1 "1	4,558,812
Ex	Homestead at Fraser Drive Development	4,000,000
Ex	Revised Speed Zone Numinbah Road	3,152
Ex	Traff Fac-Classified Rds	16,060
Ex	Traff Fac Council Rds	1,835
Ex	Pedestrian Facilities	15,461
Ex	Pandanus Parade Pedestrianisation	2,903
Ex	National Floodplain Management Authorities Conference	99,241
Ex	South Tweed Flood Levee – Investigation & Design Stage 2	1,866
Ex	NDMP 08-09 TV Floodplain RM Comp & Impl	49,927
Ex	Coastal Creeks Flood Study & Floor Level Survey 2011-12	150,000
Ex	Voluntary purchase - general	89,462
Ex	Country Passenger Transport Interchange	25,712
Ex	Plan of Management Duranbah Beach	9,387
Ex	Canal Maintenance	23,553
Ex	Kingscliff Foreshore Revetment Stage D	15,675
Ex	Lwr Tweed Mgt Plan	1,491,935
Ex	Expansion of Byrill Ck Restoration Program	10,276
Ex	Catchment Water Quality	131,151
Ex	Road Safety Programs	3,737
Ex	NDF - January 08 Flooding Event Local Roads	349,046
Ex	NDF - May 2009 Storm - Local Roads	50,283
		<u>24,753,389</u>
General funding sources		
In	Grant funds	9,457,880
In	Loan funds	2,883,176
In	Reserve funds	1,648,884
In	Works carried reserve funds	6,056,446
In	s94 funds	4,594,812
In	Other funds	112,191
		<u>24,753,389</u>
7 Year Plan expenses		
Ex	Tourism & Economic Development - Contract Services	30,134
Ex	Western Hangar Development	34,369
Ex	Economic Development Future Fund	110,443
Ex	CCTV	31,388

In/Ex	Description	Carry over amount
Ex	Cultural Arts Seed Funding	132
Ex	Arts Traineeship and Mentorship	2,572
Ex	Administrative assistant (Community)	13,476
Ex	Community Centre Murwillumbah	1,335,500
Ex	SES Operation Centre additions Banora Po	70,000
Ex	Environmental Health Compliance - Carava	25,654
Ex	Emergency Management Plan Implementation	17,726
Ex	Pool Upgrade Kingscliff (including Shde	936
Ex	Youth Activities Program	14
Ex	Youth Transport	8,890
Ex	Aboriginal Community Development	94,640
Ex	Surf Life Patrols	37,575
Ex	Surf Life Saving Strategy 2020	8,983
Ex	Land purchase - open space	100,000
Ex	Park asset maintenance	297,824
Ex	Parks Asset Renewal	168,906
Ex	Botanical Gardens	100,000
Ex	Regional Sport & Recreational Facilities	2,364,726
Ex	Jack Evan Boatharbour	126,873
Ex	Coastline Management Plan	865,430
Ex	Stormwater Drainage Rehabilitation	83,241
Ex	Waterways Asset Replacement	3,608
Ex	LEP Reviews	172,812
Ex	Corporate Planning Unit	10,920
Ex	Asset management Levees & Floodgates	200,352
Ex	Sealed Road Resurfacing	1,290
Ex	Kerb & Gutter Rehabilitation	15,229
Ex	TRRM Flagstaff	370,000
Ex	Murwillumbah Auditorium refurbishment	5,534
Ex	Community Buildings Renovations	17285
Ex	Vegetation Management Strategy	355,796
Ex	Saleyards Upgrade	41050
Ex	Sportsgrounds capital works (local)	410,987
Ex	Duranbah Beach Plan of Management	19,228
Ex	Murwillumbah Museum	2,696,069
Ex	Tweed Coast Estuaries Management Plan & River Mgt	153,907
Ex	Botanical Gardens Visitors Centre	500,000
Ex	Flood studies coastal creeks 2D (7YP)	17,233
Ex	Pottsville North drainage outlet - Elanora	6,276
Ex	West Kingscliff Drain - Gales/Bowling Club	1,512,650
Ex	Amenities Hall Kingscliff	56,529
Ex	Internal Auditor/Corporate Planning	132,243
Ex	Administrative Assistant Building	3,827
Ex	Library extension Kingscliff	1,300,000
Ex	Regional All Access Playground	350,000
Ex	Locality Plans - Rural Villages	50,000

In/Ex	Description	Carry over amount
Ex	Sport Development Officer	41,259
Ex	Extension Officer - Urban Design	499
Ex	Locality Plans - Burringbar/Mooball	50,000
Ex	WHRC Redevelopment	620,935
Ex	St Joseph Sports Amenities	187,881
Ex	Botanical Gardens - recurrent	75,000
Ex	Coastal Landscape Strategy - recurrent	200,000
Ex	Botanical Gardens Visitors Centre - recurrent	30,000
Ex	Youth Strategy - recurrent	53,198
Ex	Surplus recurrent	<u>127,792</u>
		15,718,821
7 Year Plan funding sources		
In	Revenue	3,524,981
In	Loans	6,060,580
In	Grants	922,179
In	Reserves	139,879
In	Section 94	2,987,881
In	Sales	<u>2,083,321</u>
		15,718,821
2004/05 Rate Rise expenses		
Ex	Urliup Rd Sealing School Bus Route	200,000
Ex	Bus Route Rate Rise Surplus/Deficit	223,287
Ex	Footpath repairs (Rate Rise)	13,699
Ex	Everinghams Rd Rate Rise	135,263
Ex	Nobbys Creek Rd Rate rise	65,430
Ex	Asphalt Resheeting (Rate Rise)	<u>64,697</u>
		702,376
2004/05 Rate Rise expenses		
In	Revenue	<u>702,376</u>

OPTIONS:

Not Applicable.

CONCLUSION:

Based on current projections, the 2012/2013 Budget is expected to remain balanced for all funds. The rolled over expenditure and income is required to be voted in the 2012/2013 Budget.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

As discussed in report.

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
- 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service
- 1.2.3.1 Financial Services and legislative financial reporting
- 1.2.3.1.3 Provide financial information to the organisation to ensure budget control

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

40 [TCS-CM] 2011/2012 Statutory Financial Reports/Audit Report

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act, 1993 and the Special Purpose Financial Reports in accordance with the Local Government Code of Accounting Practice and Financial Reporting for the financial year ended 30 June 2012 have been completed.

Section 413 (2) – A council's financial reports must include:

- (a) a general purpose financial report;
- (b) any other matter prescribed by the regulations; and
- (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.

This report recommends that the statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413 (2) (c) of the Local Government Act and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting be executed.

RECOMMENDATION:

That:

1. **In accordance with Section 413(1) of the Local Government Act 1993 Council refers the General Purpose Financial and Special Purpose Financial Reports for audit.**
2. **The statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413(2)(c) of the Local Government Act 1993 and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting for the financial period 2011/2012, be executed.**

REPORT:

Background

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act 1993 for the financial year ended 30 June 2012 has been completed.

Legislation Requirements

The Local Government Act 1993 ("the Act") relating to the preparation of Council's annual financial reports requires that:

1. Section 413 – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.
5. Section 418 – Upon receiving the Auditor's Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor's Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council's audited financial reports or with respect to the Auditor's Report.
7. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.
8. Section 417 (5) - It is a requirement that lodgement of the Audited Financial Statements and the Auditors Report be submitted to the Chief Executive of the Division of Local Government by 7 November of each year.

Council's Statutory General Purpose Financial Reports and Special Purpose Financial Reports for the financial year ended 30 June 2012 have been completed. Due to the timing of the Audit Committee meeting, the October Council meeting and the requirement to give at least seven days public notice of the meeting at which it proposes to present its audited

financial reports, the presentation of the Financial Reports to the public will be held at the November Council meeting.

The Audited Financial Statements and Auditors Report will be sent to the Division of Local Government by 7 November as required.

The Income Statement, Balance Sheet, Statement of Changes in Equity and the Statement of Cash Flows will be tabled at the October meeting after endorsement from the Audit Committee.

Tweed Shire Council

General Purpose Financial Statements

for the financial year ended 30 June 2012

Statement by Councillors and Management

made pursuant to Section 413(2)(c) of the Local Government Act 1993 (as amended)

The attached General Purpose Financial Statements have been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made thereunder,
- The Australian Accounting Standards and professional pronouncements, and
- The Local Government Code of Accounting Practice and Financial Reporting.

To the best of our knowledge and belief, these Financial Statements:

- present fairly the Council's operating result and financial position for the year, and
- accords with Council's accounting and other records.

We are not aware of any matter that would render the Reports false or misleading in any way.

Signed in accordance with a resolution of Council made on 25 October 2012.

Barry Longland
MAYOR

Michael Armstrong
COUNCILLOR

David Keenan
GENERAL MANAGER

Michael Chorlton
RESPONSIBLE ACCOUNTING OFFICER

Tweed Shire Council

Special Purpose Financial Statements

for the financial year ended 30 June 2012

Statement by Councillors and Management

made pursuant to the Local Government Code of Accounting Practice and Financial Reporting

The attached Special Purpose Financial Statements have been prepared in accordance with:

- The NSW Government Policy Statement "Application of National Competition Policy to Local Government".
- The Division of Local Government Guidelines "Pricing & Costing for Council Businesses - A Guide to Competitive Neutrality".
- The Local Government Code of Accounting Practice and Financial Reporting.
- The NSW Office of Water (Department of Environment, Climate Change and Water) Guidelines - "Best Practice Management of Water and Sewerage".

To the best of our knowledge and belief, these Financial Statements:

- Present fairly the Operating Result and Financial Position for each of Council's declared Business Activities for the year, and
- Accord with Council's accounting and other records.

We are not aware of any matter that would render these Statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 25 October 2012.

Barry Longland
MAYOR

Michael Armstrong
COUNCILLOR

David Keenan
GENERAL MANAGER

Michael Chorlton
RESPONSIBLE ACCOUNTING OFFICER

OPTIONS:

Not Applicable.

CONCLUSION:

That the statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413 (2) (c) of the Local Government Act and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting be executed.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

INFORM. We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service
- 1.2.3.1 Financial Services and legislative financial reporting
- 1.2.3.1.2 Audited Annual Financial Reports

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

41 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 8 August 2012

Venue:

Canvas & Kettle Meeting Room

Time:

1.15pm

Present:

Jane Lofthouse (Chair); Terry Kane (Cabarita Beach-Bogangar); Rob Kasmarik (Office of Environment and Heritage); Rhonda James (Restoration Industry); John Harbison (Mooball); Ian Rabbitts (Fingal Head); David Cranwell (Pottsville); Stewart Brawley; Tom Alletson (Tweed Shire Council).

Informal:

Cathey Philip (Minutes Secretary).

Apologies:

Cr Barry Longland; Cr Katie Milne; Ian Hanson (NSW Land & Property Management Authority); Lance Tarvey (Office of Environment and Heritage); Gary Thorpe (Hastings Point); Jason Pearson (Kingscliff); Sebastien Garcia-Cuenca, Mark Kingston (Tweed Shire Council).

Minutes of Previous Meeting:

Minutes of the Tweed Coastal Committee meeting held Wednesday 13 June 2012 have not yet been reported to Council.

Business Arising:

BA1. Kingscliff Vegetation Vandalism - Council Report (Agenda Item 4, 13 June 2012)

At the 26 June 2012 meeting, Council resolved the following:

RESOLVED that Council:

1. *Writes to the property owners in Marine Parade, Kingscliff:*
 - (a) *advising of recent vegetation vandalism on Kingscliff foreshore.*
 - (b) *advising that this activity is illegal.*
 - (c) *requesting persons to come forward who have any information on the recent clearing.*
 - (d) *advising that any further vandalism may result in Council taking action such as the erection of large signage and screens.*
2. *Constructs a dune fence along the foreshore where the vandalism has occurred to delineate the beach access points and discourage access into coastal bushland.*
3. *Places signage along the fence to advise that the foreshore vegetation is protected and any unauthorised access into the dune vegetation should be reported to Council.*
4. *Increases awareness of the importance of protection of dune vegetation and the important role played by volunteers in maintaining public bushland through an article in the Tweed Link and media releases.*
5. *Supports and assists with replanting of the foreshore area by Kingscliff DuneCare Group.*

The following recommendation was adopted at the Tweed DuneCare Coordinating Committee meeting on 19 July 2012:

Dune Vegetation Vandalism, Marine Parade, Kingscliff

RECOMMENDATION:

Moved: Kay Bolton

Seconded: Caz McDougall

The Tweed DuneCare Coordinating Committee is dissatisfied with Council's decision to not erect a screen after two occurrences of vegetation vandalism in this location and recommends a screen be erected as has happened in other coastal Council areas.

RECOMMENDATION:

Moved: John Harbison

Seconded: David Cranwell

That the Committee:

1. Notes the recommendation by the DuneCare Committee.
2. Recommends that Council takes further action such as the erection of screens if there are any further occurrences of vandalism.

BA2. Tweed Coast Estuaries Coastal Zone Management Plan

Tom advised that the final Draft Plan would not be available until November. It would be presented to the Committee at the December meeting for consideration of placing the Draft Plan on public exhibition in February 2013.

The Baseline Ecological Study was distributed.

BA3. Mooball Creek Revetment and Boring Pottsville Waters Canal Pipes

Tom provided details on two projects at Mooball Creek, Pottsville.

The inlet and outlet pipes of Pottsville Waters Canal have become overgrown with marine growth which causes reduced tidal flushing. In addition to reduced flushing, the recent wet seasons have increased the fresh water runoff and groundwater entering the canal. There has been a die-back of oysters and general lowering of water quality. Council will undertake boring of the pipes to remove oyster growth.

The river bank adjacent to the boat ramp in Mooball Creek has been eroding for some time. Revetment of the riverbank from the boat ramp to the basketball court will commence soon.

BA4. Cudgen Creek Riparian Restoration Project

Tom advised the Committee that a local businessman, Tim Jack Adams (Watersports Guru) is working with Kingscliff High School on restoration of the riparian zone. Tim is keen to facilitate local schools to be more involved in environmental projects along Cudgen Creek.

BA5. DCP25 Coastal Hazards - DA at Cabarita Beach

Jane advises the further information requested for the DA at Cabarita Beach has not been received. Another DA lodged by Fingal Head SLSC was not adequate and further information has been requested.

Agenda Items:

A1. Kingscliff Foreshore and Tweed Coast Studies Update

Jane provided an update regarding the consultants developing the regional processes assessment for Tweed Byron area and modelling Kingscliff coastal processes.

A Benefit Cost Analysis study is to be undertaken using four management options for Kingscliff. The outcome of this option analysis will feed into the development of a Coastal Zone Management Plan for Kingscliff. There was a lengthy discussion regarding four options.

The entrance of Cudgera Creek at Hastings Point had been closed over recently causing rising concern over water quality and elevated water levels in the catchment. John advised that the creek entrance had scoured naturally and was flowing again.

Rhonda left the meeting at 2.15pm

A2. Tweed DuneCare Coordinating Committee

The minutes of the July meeting, including the following recommendations to the Tweed Coastal Committee, were discussed.

RECOMMENDATION:

Moved: Kaye Louis

Seconded: Kay Bolton

There is an increased need for ranger presence on coast to regulate the range of issues affecting Tweed Coast's natural environment. The Tweed DuneCare Coordinating Committee requests a dedicated ranger for the Tweed coastal area.

There was a discussion on necessity of rangers over the weekend; the difficulty resourcing such attendance and the need for the community to report illegal activities so that statistics can be provided to warrant additional resources.

RECOMMENDATION:

Moved: Terry Kane

Seconded: John Harbison

That the Committee notes the recommendation from the Tweed DuneCare Coordinating Committee and recommends that Council better identify areas that need additional resources.

Dune Vegetation Vandalism, Marine Parade, Kingscliff.

RECOMMENDATION:

Moved: Kay Bolton

Seconded: Caz McDougall

The Tweed DuneCare Coordinating Committee is dissatisfied with Council's decision to not erect a screen after two occurrences of vegetation vandalism in this location and recommends a screen be erected as has happened in other coastal Council areas.

This matter was dealt with as part of Agenda Item 1.

RECOMMENDATION:

Moved: Kay Bolton

Seconded: Caz McDougall

The Tweed DuneCare Coordinating Committee objects in principal to the Lot 490 development, specifically the development of public vegetated land for commercial purposes.

The Committee noted this item.

David advised the timber revetment wall on the east side of Mooball Creek (Potts Point) needs to be rebuilt. A stabilising pole has fallen over; water flow is now removing the soil from behind the wall. A huge tree has fallen across the wall into creek blocking access. Needs to be cut up and removed.

David also commented on the amount of Bitou Bush around Pottsville and Hastings Point. Noted that Rod Keevers would be undertaking spray control shortly along the coast.

A3. NSW Coastal Conference 2012

Jane advised that the NSW Coastal Conference will be held on 6 to 9 November 2012 in Kiama.

RECOMMENDATION:

Moved: Terry Kane

Seconded: John Harbison

That Council endorses attendance of the chairperson of the Tweed Coastal Committee or their delegate as well as appropriate staff to attend the conference.

General Business:

GB1. Safety Signs - Cabarita Beach

Terry noted several emergency/safety signs missing; one from Cypress Crescent and Cabarita Beach. These to be referred to Recreation Services.

GB2. Terms of Reference

Jane advised that due to Council elections in September, the current Committee will be dissolved and a new Committee established. The Terms of Reference will be circulated to current members and an advertisement will be placed in the Tweed Link calling for nominations.

GB3. Coastal Creek Flood Study

Terry advised of feedback he has received regarding insurance companies imposing high premiums to insure residences in the Bogangar area due to the Flood Study. This has a major impact on costs.

Jane advised that the Coastal Creek Flood Study Plan is on exhibition and Terry suggested something may have to be incorporated into the Management Plan.

It was decided to invite Danny Rose, Council's Planning & Infrastructure Engineer, to come to next meeting to discuss work being done.

Next Meeting:

The next meeting of the Tweed Coastal Committee will be held Wednesday 10 October 2012.

The meeting closed at 2.50pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

BA1. Kingscliff Vegetation Vandalism

Nil.

A2. Tweed DuneCare Coordinating Committee

Nil.

A3. NSW Coastal Conference 2012

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

BA1. Kingscliff Vegetation Vandalism

That Council:

1. Notes the recommendation of the DuneCare committee regarding their dissatisfaction with the decision not to erect a screen adjoining the vandalised areas of vegetation in Marine Parade.
2. Considers further action such as the erection of screens if there are any additional occurrences of vegetation vandalism.

A2. Tweed DuneCare Coordinating Committee

That Council notes the Tweed DuneCare and Tweed Coastal Committee's concerns regarding the need for additional regulation of issues affecting the natural environment and the need for increased ranger presence in these areas.

A3. NSW Coastal Conference 2012

That Council determines Councillor attendance at the NSW Coastal Conference to be held 6-9 November 2012 in Kiama.

Next Meeting:

That Council notes the 10 October meeting has been postponed until the community representatives have been determined by Council.

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ORDERS OF THE DAY



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

42 [NOM-Cr B Longland] Coal Seam Gas Mining Declaration

NOTICE OF MOTION:

Council has an adopted position supporting a moratorium on Coal Seam Gas Exploration in the Shire. Together with the strong position taken by all candidates at the recent Local Government Elections and the strength of community opposition, as expressed through the many "Lock The Gate" events and local declarations, which now cover most of the land mass in the Tweed Shire:

I Councillor B Longland move that:

1. Council reaffirms its moratorium with respect to Coal Seam Gas (CSG) and declares and actively promotes the position that Tweed Shire be free of CSG and other unconventional gas operations.
 2. Council calls on local State and Federal Members of Parliament to express their support for Council's position on CSG mining.
 3. Council seeks a review of the NSW Government's Strategic Regional Land Use Policy given that it fails to rule out CSG development on productive agricultural land and sensitive environmental areas.
 4. As part of the forthcoming "White Paper" on the review of the NSW Planning system, Council makes a submission that planning powers be delegated to local government with regard to the consideration of development applications that deal with mining or gas extraction.
-

43 [NOM-Cr B Longland] Business Expansion/Job Creation

NOTICE OF MOTION:

Councillor B Longland moves that Council brings forward a report as early as possible which;

1. Identifies those fees, charges and regulations which are under Council's current control, that impact on business attraction, start-up and retention.
 2. Makes recommendations on a suite of incentives that will facilitate business expansion and job creation.
-

44 [NOM-Cr K Milne] Kings Forest

NOTICE OF MOTION:

Councillor K Milne moves that:

1. Council writes to the Minister for Planning and the Department of Planning to express serious concerns with the Kings Forest development, and particularly in light of Council's application to list Tweed's Coastal Koalas as Endangered, as well as serious concerns for biodiversity and other threatened species, including the marine ecology.
2. Reiterate Council's previous resolutions of October 2009 and the original advice of the NSW Department of Environment in 2006, particularly that development should be excluded from the Cudgen Paddock and the eastern side.
3. Council advises the above that Councillors no longer support dogs of any size in Kings Forest.
4. Council requests that NSW Planning adopts leading best practices for this development and requests the department seek specialist advice on improved sustainability outcomes due to this development's significance for the Tweed Shire and in respect of Tweed's national and international environmental significance.

UNDER SEPARATE COVER:

- Attachment 1. Council's resolution from meeting held 20 October 2012 - FINAL Council Built Agenda 25102012 (ECM 7657507).
-

45 [NOM-Cr K Milne] Woodward Investigation

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on:

1. How has Council addressed the recommendations of the s430 Woodward Investigation 2005 and in particular recommendation no.4, being:

The Council review the Residential 2(C), Urban Expansion zones in Tweed LEP 2000, with a view to back zoning environmentally sensitive land where urban development is inappropriate."?

2. How actions proposed in the draft Local Environment Plan may differ in legislative force from the back zoning recommended above?
 3. Any recommendations that could further address the concerns of the Woodward Investigation.
-

46 [NOM-Cr K Milne] Bay Street, Tweed Heads

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on the proposed selling of the Bay Street, Tweed Heads road reserve that was intended to facilitate the Tweed Mall redevelopment.

47 [NOM-Cr K Milne] Greenfield Policy Implications

NOTICE OF MOTION:

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

1. Ecological sustainability appropriate to Tweed Shire's nationally and internationally significant environment and its current environmental stress,
 2. Community health planning, including meeting the needs of seniors and children,
 3. Planning for green spaces, community gardens, edible landscapes and wild places,
 4. Reduced carbon emissions, energy efficiency, and potential for greater on site waste management, and
 5. Opportunities to promote and facilitate a more localised economy through appropriate planning.
-

48 [NOM-Cr W Polglase] Fingal Rovers Surf Life Saving Club

NOTICE OF MOTION:

Councillor W Polglase moves that Council gives consideration in its 2013-2014 Budget to providing an additional \$200,000 for the completion of the Fingal Rovers Surf Life Saving Facilities renovations.

49 [NOM-Cr W Polglase] Proposed Police Command Centre, Kingscliff

NOTICE OF MOTION:

Councillor W Polglase moves that Tweed Shire Council advises the Police, Minister of Local Government, Member for Lismore, Thomas George, Member for Tweed, Geoff Provest, of its continued opposition to The Police Command Centre Development Application for the existing Police Station site Marine Parade, Kingscliff.

50 [NOM-Cr W Polglase] Memorandum of Understanding with Leda Developments

NOTICE OF MOTION:

Councillor W Polglase moves that:

1. Council bring forward a report with regards to the Memorandum of Understanding with Leda Developments. The report is to indicate:
 - what costs have been incurred?
 - does Council still have a contractual arrangement with the facilitator?
 - has the Memorandum been signed, and if not signed, what are the hold ups?

This report to be tabled at the November 2012 meeting.

2. Council gives consideration to withdrawing from the process with Leda Developments.
-

51 [NOM-Cr W Polglase] Council Contributions Fees and Charges

NOTICE OF MOTION:

Councillor W Polglase moves that Council:

1. Brings forward a report identifying the number of small businesses that were approved in the last 12 months and the income generated to Tweed Shire Council for the Section 94 contributions. The report to indicate what implications would be to the Council budget if these charges were reduced by 50%. This report to be presented to Council at the December meeting.
 2. Determines at the December 2012 meeting if to discount the Section 94 charges for small business applicants by 50% for a period of twelve (12) months beginning from 1 January 2013 to 31 December 2013.
 3. Consults with the combined Chambers of Commerce and other industry groups before the report is tabled at the December meeting.
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CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO-CM] Kyogle Road, Terragon - Acquisition of Land for Road Purposes

REASON FOR CONFIDENTIALITY:

The report contains details of proposed compensation for the land acquisition and the report should be considered in Confidential Session.

Local Government Act

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

- (a) personnel matters concerning particular individuals (other than councillors).



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