



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Agenda

Ordinary Council Meeting Tuesday 26 June 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

- 1 [CONMIN] Confirmation of the Ordinary and Confidential Council Minutes from Meeting held Tuesday 15 May 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 15 May 2012 (ECM 50528456).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 15 May 2012 (ECM 50528461).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

1a [SOR] Schedule of Outstanding Resolutions as at 26 June 2012



Civic Leadership

CODE OF MEETING PRACTICE:

Section 2.8 Outstanding Resolutions

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

FOR COUNCILLOR'S INFORMATION:

16 February 2010

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne
Cr K Skinner

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

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

19 October 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

686

Cr K Milne

Cr B Longland

RESOLVED that Council:

....

6. Develops a water friendly garden Policy.

Current Status: Interim report included in the June 2012 Council business paper.

17 May 2011

ORDERS OF THE DAY

42 [NOM-Cr K Milne] Whole of Shire Cultural and Community Facilities Plan and Open Space Requirements - Review

320

Cr K Milne

Cr B Longland

RESOLVED that the General Manager investigates and reports back to Council on a possible review of the Whole of Shire Cultural and Community Facilities Plan and Open Space requirements in light of the greater recognition of these issues to Healthy Cities and mental health, and as a timely review for these 2002 and 2007 plans.

Current Status:

Community Facilities: As the current Whole of Shire Cultural and Community Facilities Plan was adopted in 2007, it was appropriate to commence review after 5 years. Therefore it is planned to commence the review process for this plan in the 2013/2014 financial year.

Open Space: Recreation Services has commenced development of a Public Open Space Strategy that will address the issues raised. However, as there is no allocated funding for the project it is being undertaken in-house as resources allow so the timeframe for completion is indeterminate.

16 August 2011

ORDERS OF THE DAY

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

504

Cr D Holdom

Cr W Polglase

RESOLVED that the:

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

Current Status: Report included in the June 2012 Council business paper.

15 November 2011

ORDERS OF THE DAY

60 [NOM-Cr K Skinner] World Rally Championship - Economic Impact

721

Cr K Skinner

Cr W Polglase

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

Current Status: Letter requesting information from Destination NSW forwarded 1 March 2012, awaiting response.

24 January 2012

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

21 [EO-CM] Chinderah Bay Drive Foreshore Masterplan

35

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council:

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

Current Status: The matter will be the subject of consideration in the 2012/2013 Infrastructure Program.

ORDERS OF THE DAY

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

NOTICE OF MOTION:

55

Cr K Milne

Cr D Holdom

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

Current Status: Report to be prepared.

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

NOTICE OF MOTION:

57

**Cr K Milne
Cr K Skinner**

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

Current Status: The NSW Cross Border Commissioner has replied, however, there is no likelihood of a meeting at this stage.

17 April 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

212

**Cr P Youngblutt
Cr K Milne**

RESOLVED that:

.....

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

Current Status: A meeting is to be organised.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

19 [CNR-CM] Green Infrastructure - Renewable Energy

228

Cr K Milne
Cr K Skinner

RESOLVED that Council:

.....

5. Invites 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.

Current Status: Expressions of Interest prepared. "Think Tank" proposed for 24 July 2012.

ORDERS OF THE DAY

43 [NOM-Cr K Skinner] Jetty at Chinderah

NOTICE OF MOTION:

254

Cr K Skinner
Cr P Youngblutt

RESOLVED that with reference to the letter from Chinderah District Residents' Association Inc dated 30 March 2012 (provided under separate cover) regarding a jetty at Chinderah, that:

1. Council supports the establishment of a pontoon jetty structure in Chinderah to properly service the boating fraternity and commences all necessary design and funding applications.
2. Council officers to bring back a report on options for size and location of the proposed jetty.

Current Status: A report analysing the options and funding arrangements is currently being prepared.

15 May 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

270

**Cr P Youngblutt
Cr J van Lieshout**

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

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

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MAYORAL MINUTE

2 [MM-CM] Mayoral Minute for the Period from 4 May to 6 June 2012

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

COMMITTEE MEETINGS

Attended by the Mayor

- 4 May 2012 - NOROC Meeting - Ballina Shire Council, Ballina.
 - 8 May 2012 - Destination Tweed Board Meeting - Stacks the Law Firm offices, Level 1, Wharf Central, 75 Wharf St, Tweed Heads.
 - 18 May 2012 - Sub-committee meeting, Margaret Olley Art Centre Steering Committee - Tweed River Art Gallery (Warren Polglase also attended as Foundation Chairman).
 - 23 May 2012 - Destination Tweed meeting with Chambers of Commerce - Babalou Restaurant, Level 1, 102 Marine Parade, Kingscliff.
-

INVITATIONS:

Attended by the Mayor

- 6 May 2012 - Battle of the Border Cycling Event - Salt Park Kingscliff.
 - 6 May 2012 - Community & Economic Development Committee, Cabarita Beach Community Workshop - Cabarita Surf Club, Pandanus Parade, Cabarita.
 - 8 May 2012 - ICAC Community Leaders Breakfast - Peppers at Salt, Bells Boulevard, Kingscliff (Councillors Holdom, van Lieshout and Youngblutt advised their attendance).
 - 9 May 2012 - 4CRB Radio Talkback with the Mayor - 4CRB Radio, Burleigh Heads.
 - 11 May 2012 - Opening of the Northbound Carriageway of the Banora Point Upgrade with Anthony Albanese - Banora Point Upgrade.
-

- 11 May 2012 - Official Opening of the 21st annual Tyalgum Festival of Classical Music - World Heritage Rainforest Centre, Corner Tweed Valley Way & Alma Street, Murwillumbah, Northern NSW.
- 11 May 2012 - Mt St Patrick College Parents & Friends Association Annual Debutante Ball - Murwillumbah Catholic Hall.
- 12 May 2012 - Australian Navy Cadets, Annual Inspection of TS Vampire and ceremonial parade - Dry Dock Road, South Tweed Heads.
- 14 May 2012 - Australian Landcare Council visit to Fingal Head Coastcare - Lighthouse Parade, Fingal Head.
- 15 May 2012 - Kingscliff Chamber of Commerce Meeting - Cudgen Headlands Surf Club, Marine Parade, Kingscliff (also attended by Cr Polglase).
- 16 May 2012 - Destination Tweed Board - Kingscliff TAFE, Kingscliff.
- 17 May 2012 - Official Opening of the Seniors Expo - Seventh Day Adventist Centre, Race Course Rd Murwillumbah (Crs Polglase and van Lieshout also advised their attendance).
- 17 May 2012 - Kids in Community Awards Launch Night - South Tweed Sports Club, 4 Minjungbal Drive, Tweed Heads South.
- 19 May 2012 - Tweed Netball Association Opening Ceremony and Gala March Past - Arkinstall Park, Cunningham St, Tweed Heads South.
- 19 May 2012 - Fingal Rovers Surf Lifesaving Club, Presentation Celebration - Cudgen Leagues Club, Wommin Bay Road, Kingscliff.
- 20 May 2012 - RSPCA Million Paws Walk Fundraiser - Jack Bayliss Park, Kingscliff.
- 21 May 2012 - Opening of Jack Evans Boat Harbour Playground and Amenities - Jack Evans Boat Harbour, Cnr Bay and Wharf Streets, Tweed Heads.
- 21 May 2012 - Community Workshop, Cabarita Beach Bogangar Community Economic Development Committee - Cabarita Beach Bowls and Sports Club, Cabarita Road, Bogangar
- 22 May 2012 - RSL Kingscliff dedication of a plaque to the War in Afghanistan - Murphy's Road Memorial Walk, Kingscliff.
- 23 May 2012 - Citizenship Ceremony - Tweed Heads Civic Centre Auditorium.
- 24 May 2012 - Twin Towns Friends, Big Cuppa for Cancer - Community Hall, Cnr Heffron St and Minjungbal Drive, Tweed Heads South (Cr Holdom also attended).
- 27 May 2012 - Councillors Community Catch-up - Murwillumbah Community Market, Murwillumbah Showground, Queensland Road, Murwillumbah (Crs Holdom, Youngblutt, van Lieshout and Skinner also advised their attendance).

- 01 June 2012 - Murwillumbah Chamber of Commerce Breakfast - Greenhills on Tweed, Murwillumbah.
- 01 June 2012 - Cudgen Headlands Surf Lifesaving Club Sponsors Luncheon - Cudgen SLS Club, Marine Parade, Kingscliff (also attended by Cr Warren Polglase).
- 03 June 2012 - World Environment Day Festival - Knox Park, Murwillumbah (Crs Milne and Holdom also advised their attendance).
- 03 June 2012 - Murwillumbah Philharmonic Choir fundraising concert - All Saints Anglican Church, Riverview Street, Murwillumbah.
- 01 June 2012 - Aboriginal Advisory Committee - Tweed Byron Local Aboriginal Land Council offices, Ourimbah Road, Tweed Heads.
- 01 June 2012 - Aboriginal Advisory Committee - Tweed Byron Local Aboriginal Land Council offices, Ourimbah Road, Tweed Heads.

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

- 16 May 2012 - Twin Towns Friends Association Volunteers Certificate of Appreciation Ceremony - Community Hall, Heffron Street, South Tweed Heads (attended by Cr Holdom).
- 22 May 2012 - Small Business Association of Australia Business Luncheon re The Queensland Report Card - Sharks Event Centre, Corner Olsen and Musgrave Sts, Southport (Cr van Lieshout advised her attendance).
- 04 Jun 2012 - Tweed Launch of North Coast NSW Medicare Local - "Visions" Room, Twin Towns Resort, Tweed Heads NSW (attended by Cr Youngblutt)
- 05 Jun 2012 - Graduation of the 'Tweed Environmental Restoration' National Green Jobs Corps Project - Masterson Park, Broadway, Burringbar Village (attended by Cr van Lieshout)

Inability to Attend by or on behalf of the Mayor

- 11 May 2012 - Coastal Environment Education Centre (CEEC) Working Group Inaugural Meeting - Cabarita Beach Surf Club, Cabarita.
- 12 May 2012 - Coal Seam Gas-free Northern Rivers Rally and Rock the Gate Concert - Riverside Park, Lismore.
- 17 May 2012 - Tweed River Regional Museum Advisory Committee - Coolamon Cultural Centre, Murwillumbah.
- 19 May 2012 - Southern Cross University Graduation Ceremony - Twin Towns Services Club, Wharf Street, Tweed Heads.

- 24 May 2012 - "Loving, Living, Local" Wine and Cheese Night and launch of Cathie Sherwood's Book, Tri Unia - Babalou Restaurant, Marine Parade, Kingscliff.
 - 25 May 2012 - Kingscliff Chamber Afternoon Meet n Greet - Babalou Restaurant, Kingscliff.
 - 03 Jun 2012 - Cabarita Beach/Bogangar Projects Planning Group - Cabarita Beach Surf Life Saving Club.
 - 06 Jun 2012 - Shake Rattle and Roll VIP Party for Cooly Rocks On - Warner Street, Coolangatta
-

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by Councillor	Topic	Councillors For	Councillors Against	Proposed Workshop Date
04/05/12	Cr D Holdom	Coastal Reserves - understanding our responsibilities.	Holdom Longland Milne Skinner	3 Remaining Councillors	Held on 5 June 2012
28/05/12	Cr D Holdom	Re Business opportunities arising from the CeBIT Global Conference attended by the Director of Technology & Corporate Services.	Holdom Youngblutt Milne	4 Remaining Councillors	Not proceeding
30/05/12	Darryl Anderson Consulting for clients Kozak	Review of determination of DA11/0527, No. 27 Charles Street, Tweed Heads.	None	All 7 Councillors	Not proceeding
31/05/12	Cr D Holdom	Mobile Phone Towers Bill - Senate Committee's recommendation against passing the bill.	Holdom Milne	5 Remaining Councillors	Not proceeding
02/06/12	Cr D Holdom	Minister for Local Government's temporary policy to apply to proposals to change Local Government Boundaries in NSW.	Holdom Longland Milne	4 Remaining Councillors	Not proceeding

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 4-6 Jun 2012 - Shires Association of NSW Annual Conference 2012 - Sofitel Wentworth Hotel, 61-101 Philip Street, Sydney - Councillors Longland and Polglase attended.

Information on Conferences to be held

There has been no advice, in the period from 4 May to 6 June 2012, of conferences for Councillor attendance prior to 8 September 2012 election.

SIGNING OF DOCUMENTS BY THE MAYOR:

- 14 May 2012 - Lease - Southern Cross University - Tweed Heads Civic Centre Courtyard Area.
 - 14 May 2012 - Request document - Realignment of MR 142 - Kyogle Road Uki.
 - 17 May 2012 - Transfer document - Sale of Chilcotts Quarry at Chillingham.
 - 17 May 2012 - Request document - Land Acquisition - Urliup Road Urliup
 - 29 May 2012 - Lease - Murwillumbah Aero Club Ltd
-

COUNCIL IMPLICATIONS

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Financial Plan:

Appropriate expenditure is allowed for attendance by Councillor 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 04 May to 06 June 2012 be received and noted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

3 [MM-CM] Mayoral Minute - Small Business Assistance

SUBMITTED BY: Cr B Longland, Mayor



Strengthening the Economy

Councillors,

There has been much discussion, debate and concern amongst Councillors and in the business community in past months regarding the worsening situation for small business in the Shire. The number of vacant shops in our commercial/retail areas is an issue that is alarming to the business sector and to all Councillors.

Council have previously considered a resolution and workshopped the subject which culminated in a "round table" discussion on June 8. All of the Business Chambers, Destination Tweed, corporate stakeholders, six Councillors and senior Council staff were in attendance. The objective of the round table was primarily to identify ways in which Council can assist and support small business in recognition of its importance to the Tweed economy.

The report of the NSW Small Business Commissioner's Listening Tour and an approach from the NSW Business Chamber on the subject of "small business-friendly" Councils was also part of the motivation for Councillors to bring the business community together.

The round table identified a broad range of issues confronting the small business sector. Clearly, the state of the economy and its effect on consumer demand was agreed by all as a significant contributor to the current difficulties. As well, there are issues of a cross-border nature that will need to be pursued through the Cross Border Commissioner and through the discussion of Special Economic Zone status for the Tweed region.

There were, however, issues that are within the control of Council and these were discussed at length. Through the input and anecdotes of those present, the principal areas where it was considered Council could play a role included the time taken to process Development Applications and their complexity, contributions (particularly for parking), the need for a specific "go-to" person as a conduit between the business applicant and Council processes and the need for a small business information package to support the application process.

The proposals that I am putting forward will, if they are successful, have an impact on revenue that will need to be dealt with in quarterly budget reviews. However, I believe that the potential benefits of increased economic activity, the creation of employment and the multipliers that can be derived from more business activity will far outweigh any costs. These measures are designed as practical short term assistance in an effort to "kick start" small business in our existing Central Business District areas.

Pending the completion of a planned, broader review and exhibition of the car parking and servicing requirements of Tweed Development Control Plan 2008 - Section A2, and in order to positively reinforce the partnership between Council and the business sector, I propose that Council adopt the following recommendation.

COUNCIL IMPLICATIONS:

a. Policy:

Not applicable.

b. Budget/Long Term Financial Plan:

Budget implications to be examined following consideration of matter.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

RECOMMENDATION:

That Council:-

1. **Endorses the waiving of the provision of any additional on site car parking spaces as required under Section A2 – Site Access and Parking Code – Tweed Development Control Plan (DCP) 2008, and any related in-lieu contribution under Tweed Section 94 Contribution Plan No. 23 – “Offsite Parking”, for change of use development applications, lodged after 1 July 2012 and up until 30 June 2013, for the following developments:**
 - a) **those developments defined as either “commercial premises”, “shops”, “refreshment rooms”, or “general stores”, and located within land zoned either: 3(a) Sub-regional Business, 3(b) General Business, 3(c) Commerce and Trade, 3(d) Waterfront Enterprise or 3(e) Special Tourist (Jack Evans Boat Harbour) under the Tweed Local Environmental Plan 2000;**
 - b) **the waiving of the above requirements shall only apply to existing premises with a gross floor area below 250m²; and**
 - c) **the subject developments will still be required to provide any additional delivery and service vehicle parking and loading/unloading facilities within the site, as specified under Section A2 of Tweed Development Control Plan 2008.**

2. Identifies a designated Business Support Person within Council with the business skills necessary to provide a first point of contact and ongoing advice and support with the applicable planning and regulatory requirements.
 3. Develops a Small Business Assistance Package with documentation to include, but not limited to, the following:
 - a) An outline of the role of Council's Business Support Person.
 - b) The requirements for completion of a development application, specific to business applications.
 - c) Applicable fees and contributions.
 - d) Zoning considerations.
 - e) Regulation of advertising signage.
 - f) Health and safety considerations.
 - g) The availability of Council's pre-lodgement service and the role of external planning consultants in the application process.
 - h) Service level commitments from Council.
-

UNDER SEPARATE COVER:

Nil.

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

- 4 [GM-CM] Update on Cross Border issues identification with Gold Coast City Council

SUBMITTED BY: General Manager



Strengthening the Economy

SUMMARY OF REPORT:

Due to anomalies in state legislation, policy, funding and service delivery, border communities often face obstacles accessing basic services, facilities and economic opportunities many other communities take for granted. Managing growth and service delivery across borders remains a significant challenge for State and Local Governments alike.

The communities of Coolangatta and Tweed Heads (and surrounding areas) have long suffered the adverse impacts of the differing government legislation, policies, services and planning requirements, which exist between Queensland and New South Wales. These have given rise to a broad number of issues ranging from child protection and guardianship law anomalies through to time zone differences, service gaps (such as in the areas of public transport and health care) and a lack of integrated development planning.

Due to the existence of these types of issues the Queensland and New South Wales Governments have developed a Memorandum of Understanding (MOU) to encourage closer collaboration on, and resolution of, cross border issues.

This renewed willingness by the States to collaborate on cross-border issues is also being reflected at a local level. Over the past year, Gold Coast City and Tweed Shire Councils have been collaborating to identify and prioritise a list of local cross-border issues of most concern to Councils and/or their communities and proposed advocacy actions. The new Queensland Government is understood to be generally aware of these issues and would most likely welcome feedback from Council in relation to them.

RECOMMENDATION:

That:

- 1. Council notes the progress that has been made to date by Tweed Shire Council and Gold Coast City Council officers in identifying cross border issues impacting adversely on the communities of Coolangatta and Tweed Heads and endorses the continuing involvement of senior officers in this collaborative endeavour.**
- 2. The Mayor writes to both the Queensland and New South Wales Premiers and the New South Wales Cross Border Commissioner:**
 - (a) broadly outlining the cross-border issues, which have been jointly identified by the Tweed Shire and Gold Coast City Councils so far, and**
 - (b) seeking their commitment to on-going dialogue and action in addressing these issues and honouring the Queensland – New South Wales Memorandum of Understanding on Cross Border Collaboration given effect to in August 2011, more generally.**
- 3. That the General Manager presents further progress reports to Council on cross border issues as new information of importance comes to hand.**

REPORT:

The three main purposes of this report are to:

1. provide a brief overview for Council of the Memorandum of Understanding (MOU) struck between the New South Wales and Queensland Governments last August aimed at addressing cross border issues;
2. update Council on the collaborative work that has been undertaken since by officers of Tweed Shire and Gold Coast City Councils to identify local cross border issues of joint concern to the Councils and/or their constituents; and
3. make recommendations to Council on possible future actions.

Historically, policy makers have tended to view communities divided by state territorial boundaries as being economically, socially and culturally distinct. However, in reality, such border communities are often highly interconnected and dependent on one another for services, facilities and economic opportunities. Tensions arise when state differences in policy, legislation, funding streams and modes of service delivery prevent or make it difficult for residents and businesses located on one side of the border to access services, facilities and economic opportunities existing on the other.

Moreover, for governments wishing to take a more regional or place-based approach to planning and service delivery, borders present a myriad of cross-jurisdictional complexities and coordination problems – particularly at the state and local levels.

In recognition of this unsatisfactory situation, the then newly-elected conservative New South Wales Government and Queensland Government established a special Cross-Border Memorandum of Understanding (MOU) in August 2011.

The MOU commits the two state governments to working more closely with one another to address issues impacting communities along the Queensland - New South Wales border. Areas of focus include: finance and business services; policing; health and emergency services; transport; social services; primary industries; water; emergency management; and administrative and regulatory issues.

The MOU also commits to involving other stakeholders such as local governments and the Australian Government. As part of this commitment, officers of the Queensland Department of the Premier and Cabinet (Qld DPC) (Intergovernmental Relations Unit) have been on a 'listening tour' of Southern and South Eastern Queensland Councils, including Gold Coast City Council, which they visited last October.

A broad range of cross-border issues relevant to the Coolangatta – Tweed Heads area was discussed during the visit with a small delegation of Councillors and senior officers, with transport and integrated land use planning being two of the more dominant.

For its part, the New South Wales Government appointed a Cross Border Commissioner earlier this year to undertake a similar round of consultation with communities and local governments along its borders.

In parallel with the discussions being conducted at the state level, Gold Coast City and Tweed Shire Councils have also been collaborating in a bid to identify and prioritise those

cross-border issues they would like to see addressed on behalf of their border communities, with a view to introducing a joint lobbying effort to bring about improvements.

This collaboration formally commenced at a joint meeting of the two Councils on 12 August 2011. This was followed by internal surveys of Gold Coast City Council senior officers to identify the most problematic issues in September 2011 and Tweed Shire Council senior officers in February/ March 2012.

More recently, a joint meeting of the Chief Executive Officers and other senior officers of Gold Coast City and Tweed Shire Councils was held on 23 April 2012 to further consider and prioritise the list of identified issues.

The output of this collaborative work, which consists of a prioritised list of ten cross-border issues and proposed advocacy actions, is presented in the following table. In compiling the list, officers have taken into consideration previous research and community consultation work.

As the list is intended to form the basis of future advocacy, issues which require addressing at a higher level of government have taken precedence over those that can be progressed on a relatively low key basis by officers of the two respective Councils.

Rounding out the top five issues, in no particular order of relative importance, are: Public Transport (including taxis); Servicing Cobaki Development; Child Protection and Guardianship; Access to Health and Social Services; and Community Safety. The other five issues relate to: Sport and Recreational Facilities; Disaster/ Emergency Management; Pest Animal and Plant Management; Companion Animal Management; and Environmental and Water Cycle Management. Note, daylight saving has not been included specifically in the list of priorities as it is known to have already been heavily flagged by other groups to both state governments.

It was reported in the media on 6 June 2012 that the New South Wales Cross-Border Commissioner, Mr Steve Toms, had recently finalised and submitted his initial report to the New South Wales Government.

Although the new Queensland Government has not yet announced its position on tackling cross border issues, it is likely to be highly supportive in light of the longstanding community concern that exists about this topic. It is therefore extremely timely for both the Gold Coast City and Tweed Shire Councils to be finalising, in a more formal sense, the list of cross border issues they wish to initially bring to the attention of their respective state governments.

Timing

Work under the umbrella of the MOU by the Queensland and New South Wales Governments, although commenced, is still in its infancy and likely to be on-going over a period of a several years. However, given the NSW Cross Border Commissioner has just recently presented his first report to the New South Wales Department of Trade and Investment and is likely to meet shortly with representatives of the Qld DPC, there is some urgency now for Council to communicate formally with the State over what it believes are the priority cross-border issues it would like addressed by the Queensland and New South Wales Governments, at least, initially.

Issues identified by Tweed Shire Council

A copy of the issues identified by officers of both Gold Coast City Council and Tweed Shire Council are reproduced below from the Gold City Council Meeting scheduled to be held 22 June 2012:

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Issue # 1 - Public Transport (including taxis)

Background: Gold Coast City/ Tweed Shire is a geographically undivided urban area containing a population of 612,000 people. Because of the state border there are two separate state governments that plan, provide and govern the provision of public transport. Unfortunately there has been little communication, let alone cooperation, between the New South Wales and Queensland Governments for the coordinated provision of public transport for Gold Coast/ Tweed.

Gold Coast, in common with the rest of South East Queensland, is served by TransLink to provide an integrated public transport system based on rail, buses and, soon, light rail. The GoCard system provides seamless ticketing across these modes based on a simple radial fare zone system. Surfside buses operated by TransLink also service south of the border, but in New South Wales are governed by New South Wales regulations, operate on an unrelated fare zone system, cannot use the GoCard and have fares more than double that north of the border. The governance of taxis is also state based. There is some capability for cross border services (e.g. New South Wales taxis can pick up at designated dual cab ranks at Gold Coast Airport, Marine Parade and Griffith Street and convey passengers into New South Wales). However, there remain restrictions and inequities in the rules governing taxis in cross border operations that unnecessarily limit services to passengers and the scope of operators.

Strategic planning of transport in South East Queensland (SEQ) is based on the "South East Queensland Regional Plan 2009-2031", "Queensland Infrastructure Plan", "Connecting SEQ 2031 - An Integrated Regional Transport Plan for South East Queensland" and the work in progress on the draft "Gold Coast Southern and Central Area Transport Study (GSCATS) 2012" as well as the draft "Gold Coast transport Study (GCTS) 2012". These strategic documents provide a clear vision for provision of public transport on the Gold Coast, but because of the divisive state border, are unable to extend this vision into the Lower Tweed, even though it is part of the same urban area. The New South Wales Government Transport Agency (names have changed over the years) have not participated in the SEQ strategic transport planning process and have not advocated Tweed's needs and connections in the transport planning of the Gold Coast.

The New South Wales Government has recently established a new peak transport agency called "Transport for New South Wales" and are now preparing the "New South Wales Long Term Transport Master Plan" to be completed end of 2012. There is an opportunity in this process for Transport for New South Wales to commence dialogue with Queensland Transport and Main Roads to provide a unified transport plan and transport governance system for all of the Gold Coast/Tweed urban area.

Proposed Actions	Who	When	Status
Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for: <ul style="list-style-type: none"> Changes to governance, legislation, regulation and funding mechanisms to facilitate the extension of the Queensland TransLink and GoCard systems for buses into Tweed Shire. Review of legislation to provide seamless taxi services between Gold Coast City and Tweed Shire. Outcomes in the New South Wales Long Term Transport Master Plan to coordinate planning and provision of transport across the whole Gold Coast/Tweed urban area. Reciprocal participation in Gold Coast/Tweed strategic and operational transport planning by both New South Wales and 	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated

<ul style="list-style-type: none"> Queensland transport agencies. Establishment of mechanisms to ensure the Queensland and New South Wales Governments and their agencies Transport for New South Wales and Queensland Transport and Main Roads jointly participate and cooperate in the strategic planning, provision and governance of a unified public transport system for the Gold Coast/Tweed urban area. 	<p>TSC/ GCCC</p>	<p>Long-term</p>	<p>To be initiated</p>
<p>Issue # 2 - Servicing Cobaki Development</p> <p>Background: Cobaki Lakes is a proposed urban growth area of around 5,500 residences in Tweed Shire adjacent to the Queensland border suburbs of Tugun and Currumbin. Access to the development is initially being provided via a road connection to Boyd Street, Tugun in Queensland. There is a secondary access planned to the south to connect with New South Wales, but there is no certainty if and when this will be constructed. So for the foreseeable future all access will be via Tugun, leaving Cobaki Lakes to develop and potentially house many thousands of residents well before any access from New South Wales becomes available.</p> <p>Cobaki Lakes residents will see themselves during this formative period as socially, culturally, economically and geographically part of Queensland, despite actually residing in New South Wales. As such, they will seek services in the most convenient location, namely, Queensland.</p> <p>The nearest primary schools for Cobaki residents will be at Currumbin and Coolangatta in Queensland, while the nearest New South Wales school will be further away at Tweed Heads. Many Cobaki residents will seek access for their children in these local Queensland State schools on convenience grounds.</p> <p>The nearest ambulance and fire stations are at Bilinga in Queensland. The New South Wales facilities are much more remote with the nearest New South Wales fire station located at Tweed Heads South and the nearest ambulance facility at the Tweed Heads Hospital. In an emergency fire or accident situation, Cobaki residents could be expected to seek assistance from Queensland fire and ambulance services based at Bilinga, because the difference in time could save a life or house from burning down.</p>			
<p>Proposed Actions</p> <p>Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for:</p> <ul style="list-style-type: none"> Reciprocal arrangements between the New South Wales and Queensland Governments for Cobaki residents to have the same rights and level of access to Queensland State primary and high schools as Queensland residents. New South Wales making arrangements with the Queensland Government for ambulance and fire brigade services at Bilinga in Queensland to service Cobaki Lakes and have the same levels and rights to services as if the location was in Queensland. Establishment of a financial mechanism between the New South Wales and Queensland Governments for equitable cost reimbursement to the Queensland Government for providing school. 	<p>TSC/ GCCC TSC/ GCCC TSC/ GCCC</p>	<p>Short-term Short-term Long-term</p>	<p>To be initiated To be initiated To be initiated</p>

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<ul style="list-style-type: none"> • fire brigade, ambulance and other agreed services to Cobaki Lakes. Investigation and optimisation of the delivery agencies (New South Wales or Queensland) to be designated to provide the full range of human services required for Cobaki Lakes. 	TSC/ GCCC	Long-term	To be initiated
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Issue # 3 – Child Protection and Guardianship

Background: Communities living along the New South Wales – Queensland border have an expectation that child protection and guardianship services would function as effectively for them as they do for the rest of the country. Unfortunately, differences in the procedures and legislation guiding these essential social services across state jurisdictions is having a negative impact on individuals, families, schools and other community support organisations in the Tweed-Gold Coast border region.

One area of concern is the lack of a common, cross-border approach for undertaking Working with Children Checks. The risk posed by this is that someone barred from working with children in Queensland could obtain employment in New South Wales and vice versa, simply because one state did not have the other's information updated in their data base. When it comes to volunteers, an organisation in New South Wales cannot lawfully confirm that a person is eligible to work with children. Volunteers are obliged to sign a declaration to this effect, but the organisation has no ability to verify its correctness, independently.

Another area of concern relates to the reporting of child protection issues. Schools in the region must be familiar with the child protection systems operating in both States, and must also know which system applies to which child. This can be extremely confusing and time consuming for everyone concerned. For instance, children can live in one state while attending school in another, leaving the school, family, children and any support services to navigate between two very complex and different child protection systems. Both the Coolangatta State School and Tweed Heads Public School have reported they experience extra difficulties when making child safety notifications for children who attend school in one state, but live in the other.

The lack of a common approach in the way guardianship requirements are legislated for and enforced by the two states is also having an adverse impact. In particular, it is placing some of the significant disabled and older population in the cross border region at risk of being taken advantage of by their relatives or care givers. There is simply no real consistency in the way the requirements for guardianship and enduring power of attorney are being monitored and enforced. Unscrupulous care givers and/or their relatives can move an older person across the border where they might come under less scrutiny by the authorities in order to gain greater control of a person's assets

In a different vein, the lack of a consistent and standardised approach to guardianship is creating additional difficulties for many older people living in the region who move across the state border to be closer to their relatives. This can create problems when enduring powers for their care have been executed in one state and are not recognised in another.

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Proposed Actions	Who	When	Status
Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for:			
<ul style="list-style-type: none"> Introducing interim measures between New South Wales and Queensland to enable communities within border regions to have access to cross-check the Child Protection data bases of States and streamlining of child protection notification/ reporting processes for schools. Adoption of a nationally consistent approach to Working with Children Checks and Child Protection legislation and practices more broadly. Improved cooperation between New South Wales and Queensland on cross-border regulation and enforcement of guardianship matters to better protect elderly and vulnerable persons from abuse. Greater consistency of guardianship laws between Queensland and New South Wales, with national uniformity being an ultimate goal. 	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Long term	To be initiated
	TSC/ GCCC	Short-term	To be completed
	TSC/ GCCC	Long-term	To be initiated

Issue # 4 – Access to Health and Community Services

Background:

Universal access is usually considered a hallmark of Australia's health and social care systems. However, people residing in the Tweed-Gold Coast border region often struggle to receive an equivalent level of health and social care to their counterparts living in non-border communities of similar size and scale.

It is not uncommon for people living in border communities to want to access health and social care services nearby, but in an adjoining state, typically because it is more convenient and/or cost effective to do so. Issues arise when adjoining states fail to work together by putting in place reciprocal service delivery/ funding agreements, adequate communication protocols and comparable legislation to allow more seamless, cross-border service provision. This can result in clients being inconvenienced or, even worse, going without adequate treatment. It can also result in local services being under utilised.

Presently, New South Wales and Queensland do not have a reciprocal agreement in place for the funding and provision of aged care. This means service providers are unable to meet the needs of clients, even though they may have capacity to do so. Cross border issues relating to the delivery of disability services and aged care services are especially problematical for Home and Community Care (HACC) funded agencies. For example, there is currently a surplus of Community Aged Care (CAC) packages in Coolangatta (Queensland), while across the border in Tweed Shire there are clients on a waiting list to receive a CAC package.

Access to other vital social services and programs is also being impacted in the region by restrictive cross-border eligibility criteria. Non Government Organisation (NGO) cross-border service delivery is generally regarded as inadequate in the Tweed – Gold Coast border region for this reason. People in need of urgent welfare and employment assistance are at increased risk of homelessness. However, job networks and employment support agencies do not operate across state borders. They will instead refer clients to a service located on the appropriate side of the border, even though the service may be a substantial distance away. This can result in increased cost, travel time and, ultimately, deferring of appointments. School, preschool, disability and mental health support services are also being impacted. St Joseph's Youth Service (New South Wales based) cannot access many Queensland based support services for its clients. Even those clients who are originally from Queensland, but are temporarily living in a St Joseph's house in Tweed Shire as there are no Queensland based accommodation services on the southern end of the coast, are unable to access these services. St Joseph's cannot formally provide emergency relief for Queensland residents as the funding for the program is from the New South Wales government.

At the State Government level, the Department of Housing in New South Wales will not assist people moving to Queensland and vice versa. This can result in people living on the border having to relocate a substantial distance from their wider family, networks, employment and community resulting in possible social isolation and loss of employment.

Differences in the provision of nursing services are also creating equity problems, with excellent nursing services being available in Queensland through services such as Blue Care, but comparatively fewer community nursing services being provided in New South Wales.

Currently, there exist no cross-border arrangements between New South Wales and Queensland dealing with access to medical specialists. This means health services that need specialist training for their staff can only access this training from specialists located in the same state. One example of the problems this is creating for health care providers concerns a Tweed based service, which had a client who required feeding via Percutaneous Endoscopic

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<p>Gastronomy (PEG) tube. The specialist required to train staff for this procedure had to come from Coffs Harbour Hospital, a trip of around five hours duration. However, there were medical specialists at the Gold Coast Hospital at the time that had the skills needed to provide this training. There has been a long term vacancy for a specialist with expertise in PEG at Tweed Heads Hospital, but it is not known whether this position has since been filled. However, use of the PEG procedure is highly prevalent in aged care, and so would most likely affect a number of organisations providing aged care services not only within the Tweed-Gold Coast border region, but other New South Wales - Queensland border communities as well.</p> <p>Although national registration has done much to abolish state boundaries for the regulation of health professionals, prescribing rights - particularly non-medical prescribing rights - remain subject to individual state legislation. This means that in some cases a script issued by a health practitioner in New South Wales cannot be dispensed in Queensland and vice versa. As well as being an inconvenience to patients, this situation can greatly impinge upon patients' care and access to health professionals.</p> <p>Even when people are eligible to receive health care in an adjoining state, community transport provider funding regulations can restrict some people (i.e., those without private transport and/or adequate finances) from crossing state boundary lines to access this care. For example, community transport providers (such as Gold Coast Mobility Service) are not funded to take Queensland clients to services in New South Wales, even though the services may be the closest available. Further, Coolangatta residents cannot access any community based transportation to the Murwillumbah Hospital.</p>				
<p>Proposed Actions</p> <p>Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for:</p> <ul style="list-style-type: none"> • Development of integrated and collaborative partnerships and programs across government and non-government agencies for the delivery of health and social care services and facilities. This may require consideration of how different funding programs can be aligned to improve the ability of agencies to work together. • Reciprocal agreements between Queensland and New South Wales departments that fund organisations that provide community nursing services, allowing residents to access services across the border. • Reciprocal agreements between Queensland and New South Wales health departments. • Align regulation and legislation governing prescription of medicine between Queensland and New South Wales. • Revise health and social care funding arrangements to increase flexibility. • Review the use of existing community resources (such as buses owned by community organisations) to maximise use and offer greatest possible benefit. • Provision of youth accommodation and emergency relief services at the southern end of the Gold Coast. 				
		<p>Who</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p>	<p>When</p> <p>Short-term</p> <p>Short-term</p> <p>Short-term</p> <p>Short-term</p> <p>Short-term</p> <p>Short-term</p> <p>Short-term</p>	<p>Status</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p>

Issue # 5 – Community Safety and Juvenile Justice

Background: A combination of factors has seen community safety emerge as an important issue for the Tweed-Gold Coast border region. Among these factors are an increasingly aging population, a high percentage of people either living alone or in single parent families, comparatively high levels of socioeconomic disadvantage, a lack of basic accommodation support services, a concentrated entertainment and tourism precinct which is attractive to young people and revelers, state differences in liquor licensing regulation and a constrained ability to deal with offenders generally other than in the jurisdiction where they offend.

The region contains higher levels of socio-economic disadvantage, with a high proportion of people who are unemployed, and households who are on low incomes. All of these factors can contribute to the development of social problems, such as homelessness, substance abuse, theft, violence, vandalism and other street crime. Many people in the Tweed-Gold Coast border region live alone. People living alone are likely to experience social isolation, which can result in physical and mental health problems. It can also make people feel more unsafe and fearful of crime. In addition to this the region also has a high percentage of single parent families. Single parents rely more on support services such as childcare and social services and are more likely to experience socio-economic disadvantage.

The lack of Queensland based accommodation services for young people located at the southern end of the Gold Coast forces many locals, who are keen to remain in the area, to access accommodation services across the border in New South Wales. This renders them ineligible to access some Queensland services. However, if a young person is charged with a crime in Coolangatta, they cannot reside in supported accommodation in New South Wales (just across the border in Tweed) until the court process is complete.

Young people are drawn to the Coolangatta area, both from the southern Gold Coast and especially northern New South Wales, but there is often little for them to do lawfully if they are not of drinking age. St Joseph's Youth Service organises activities through a federal funding grant (Coolheads Project) in Coolangatta and Tweed Shire for young people, but only fortnightly in Coolangatta. Demand for services for young people will only increase with the development of Cobaki Lakes and when the Coolheads federal funding grant ceases in October 2012.

The presence of large numbers of unsupervised young people can often reduce the perception of safety, with the community expressing concerns about violence and gang related behaviour in Coolangatta, especially at night. Boredom, drunken behaviour, increasing levels of violence, and a perception of insufficient policing are the key issues behind this concern. Issues associated with drunken behaviour are made worse by difficulties that exist with dispersing people from Coolangatta in the evening as a result of insufficient public transport and issues relating to cross border taxi service provision.

The fact that entertainment venues in Tweed-Coolangatta - despite being in very close proximity to one another - operate under very different state Liquor Licensing legislation, complicates operational practices for these venues, creates confusion amongst patrons, and makes cooperation on safety management more difficult, for example when day light saving occurs in New South Wales and licensed venues open and close at different times to those in Queensland. Further to this there can be confusion around drinking alcohol in public places. In Queensland drinking alcohol in a public place is prohibited unless there is signage stating otherwise however in New South Wales you can drink alcohol in public place unless there is a signage prohibiting it.

Legislative differences are not the only barriers preventing cross-border collaboration and cooperation on community safety. A basic lack of funding support and guidelines for undertaking collaborative safety planning between the states are also stifling efforts to address existing and emerging safety issues. For

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example, the New South Wales Attorney General's Department provides support and funding for local councils to implement local crime prevention strategies. There is no clear guidance as to whether cross-border plans will be eligible for funding under this program. As a result, councils in cross-border regions are reluctant at present to expend funding on developing plans that address cross border safety issues. Moreover, the Queensland Government does not offer equivalent support/ funding for implementation of crime prevention plans.

TSC and GCCC formerly had an approved cross-border Community Safety Action Plan that included the Tweed Heads and Coolangatta/ Billonga area, but in recent years have been unable to obtain confirmation from the New South Wales Attorney General's Department that an updated cross border plan will be supported and eligible for funding.

Proposed Actions	Who	When	Status
<p>Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for:</p> <ul style="list-style-type: none"> • State funding to be made available for implementation of cross-border safety plans and consistent support from the State Government and representatives on the Coolangatta Tweed Community Safety Committee. • More youth support services, youth facilities and activities. St Joseph's Youth Service (who operates the Coolheads project) has received a federal funding grant which will cease in October 2012. State funding needs to be available for cross border services and increased youth support provided in the Coolangatta precinct. • Maintain a strong police presence in Coolangatta and Tweed Heads on weekends. • Confirm support and initiate a Cross-Border Liquor Accord to respond to issues relating to alcohol consumption, licensing and late night public transport. • Examination of Street – Outreach models operating at peak times within licensed venue precincts, engaging patrons 16+ regarding issues of public intoxication, reducing alcohol related harm and improving safety and amenity. • Revised procedures around accommodation of young people charged with a criminal offence, so that they can reside in accommodation on either side of the State border (regardless of where the charges have been laid). 	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short term	To be initiated
	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated
	TSC/ GCCC	Short-term	To be initiated

	Who	When	Status
<p>Issue # 6 – Sport and Recreational Facilities</p> <p>Background: Ensuring adequate facilities exist to enable people's participation in sport and recreation is vital for maintaining community health and well-being. However, facilities for sport and recreation (particularly sporting fields) are not meeting demand in the Tweed-Gold Coast border region.</p> <p>The provision of sports facilities in the southern Gold Coast is being constrained by a shortage of suitable land and funding. Use of these limited facilities by residents of TSC is only adding to demand. Similarly, Tweed Shire facilities are being used by Gold Coast residents, which is creating its own demand issues for TSC. The fact that a majority of sporting and recreational facilities planning in the region occurs in an ad-hoc manner, rather than based on a strategic assessment of the combined needs of GCCC and TSC residents, is exacerbating the problem.</p> <p>TSC did consider a report at its meeting held 20 October 2010 in response to a GCCC proposal for the joint purchase of Border Park Raceway. The request from GCCC raised the issue of insufficient provision of sports fields in the Tweed area to cater for expected growth. The report detailed the active open space that will be dedicated and embellished as a component of the urban release areas across the Shire, demonstrating that requirement for active open space in Tweed will be adequately catered for.</p> <p>Going forward, collaborative sport and recreational planning by TSC and GCCC has the potential to:</p> <ul style="list-style-type: none"> enable identification of a common set of regional priorities demonstrate to funding bodies that a consistent regional approach is being adopted in the Tweed-Gold Coast border region and encourage these bodies to allocate available funding in line with the priorities of the region reduce the risk of facility and program duplication facilitate greater exploration of joint partnership/ resource sharing opportunities 	<p>TSC (Stewart BRAWLEY Manager Recreation Services)/ GCCC (Bruce FLICK Senior Recreational Services Officer- South)</p>	<p>Short-term</p>	<p>To be initiated</p>
<p>Proposed Actions</p> <p>Establish ongoing forum or other mechanism, at officer level, to facilitate closer coordination and cooperation between TSC and GCCC on sport and recreational planning.</p>			

Issue # 7 – Disaster/ Emergency Management			
Background: Currently, there are no clear protocols to cover resource requests during times of emergency/ disaster between TSC and GCCC.			
Rapid sharing of information and intelligence and coordination of activity during times of disaster/ emergency is vital as the two Council's share suppliers of resources/ materials in many cases. An outstanding issue concerns clarifying lines of authority/ communication for quickly responding to cross-border requests for resources/ help.			
Proposed Actions	Who	When	Status
Develop, at officer level, a workable protocol/ arrangement between North Coast DEMC (New South Wales) and GCCC DMG (Queensland) for rapidly initiating and responding to cross-border requests for resources/ help during times of emergency or disaster.	TSC –(Coordinator Environmental Health)/ GCCC (Executive Coordinator Disaster Management)	Short-term	Matter is being actioned.

Issue # 8 – Pest Animal and Plant Management
Background: Differences in state government pest management legislation and regulation continue to create problems for councils operating either side of the Queensland and New South Wales border, such as GCCC and TSC.
Among the inconsistencies is the differing pest animal status of rabbits in Queensland and New South Wales. In Queensland, all rabbits are illegal, but only wild rabbits are illegal in New South Wales. Under the current system of self-regulation, domestic rabbits can be purchased in New South Wales by Queensland residents, with apparently little questioning about their residential status by commercial sellers and then easily transported into Queensland, increasing GCCC's compliance costs.
Anomalies in state legislation and approach are also hindering efforts to reduce exotic weed spread and infestation. The <i>Queensland Land Protection Act</i> and <i>New South Wales Noxious Weed Act</i> list the same species, but place different obligations on landholders (e.g. bitou bush is under an eradication program in Queensland and a containment program in New South Wales). Conversely, Broad leaf pepper tree and Yellow bells are under eradication programs in New South Wales and containment in Queensland.
Pest plant species under only a containment program in one state can - through the actions of birds, wind and water - spread to another, reestablishing themselves in areas under an eradication management program.

Proposed Actions	Who	When	Status
<p>At officer level:</p> <ul style="list-style-type: none"> Request the New South Wales DPI undertakes random audits of Tweed Shire Pet Shop sales records to verify that pet rabbits are in fact only being sold to persons genuinely residing in New South Wales. Investigate options/ strategies for improving awareness among GCCC community about the illegal status of all rabbits, including domestic pet breeds, in Queensland and make recommendations to Council. Approach Far North Coast County Council, at officer level, for the introduction of coordinated inspection programs of weekend markets in the cross-border region to control for unauthorised sale of prohibited pest plants. <p>Request the New South Wales Cross Border Commissioner and Queensland counterpart to advocate for:</p> <ul style="list-style-type: none"> Harmonisation of New South Wales legislation with Queensland legislation so as to outlaw the keeping of all rabbits, including domestic pet breeds, in New South Wales. Harmonisation of Queensland and New South Wales Government legislation covering control classes of pest plant species. 	<p>TSC (Coordinator Natural Resource Management) GCCC (Senior Pest Management Specialist)</p> <p>GCCC (Pest Management Planner)</p> <p>TSC (Coordinator Natural Resource Management) GCCC (Senior Pest Management Specialist)</p> <p>TSC/ GCCC</p> <p>TSC/ GCCC</p>	<p>Short-term</p> <p>Short term</p> <p>Short term</p> <p>Long-term</p> <p>Long-term</p>	<p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p> <p>To be initiated</p>

Issue # 9 – Companion Animal Management	Who	When	Status
<p>Proposed Actions</p> <p>At officer level.</p> <ul style="list-style-type: none"> Progress joint advocacy strategy for elevating nationally the present lack of uniform companion animal management laws, especially as they relate to micro-chipping and registration, animal impounding and dangerous/ restricted dogs. Subject to the outcomes of the above - develop for the joint consideration of both councils - protocols for cross-border enforcement/ regulation of companion animals, similar perhaps to those that have been developed for police officers. 	<p>TSC (Paul BROUWER Regulatory Services Coordinator) / GCCC (Geoffrey IRWIN Coordinator Animal Management)</p> <p>TSC (Paul BROUWER Regulatory Services Coordinator)/ GCCC (Geoffrey IRWIN Coordinator Animal Management)</p>	<p>Short-term</p> <p>Long-term</p>	<p>To be initiated</p> <p>To be initiated</p>
<p>Background: Legislative differences between New South Wales and Queensland concerning companion animal management can create problems for the Tweed Shire and Gold Coast City Councils in a number of respects.</p> <p>Micro-chipping and registration of animals has been a requirement in New South Wales for some years now. However, being one-off charges/ events, records are not checked annually either by a registration or micro-chip renewal process in New South Wales. So if owners do not voluntarily update their details when they change, finding the owners of stray animals can be very difficult. Queensland requires annual registration in addition to micro-chip identification and Gold Coast City Council regularly checks its data base by doing an annual door knock. Also, Gold Coast City Council's policy is to write to the last known address shown on an identification, whether that is in New South Wales or Queensland. Cross-border difficulties can occur when stray animals found in Queensland cannot be returned to their New South Wales owners because of out of date records or when Queensland animals are impounded in New South Wales without their owners being made aware, because the Council may not have a policy of notifying interstate owners.</p> <p>Moreover, the minimum statutory holding periods for which impounded animals must be held before being disposed of legally, varies according to state. Animals cannot legally be disposed of if they are not impounded correctly. Members of the public can sometimes pick up a stray or wandering animal in one state and cross the border to hand it in to a Council in another. Owners of animals may suffer a loss through being unaware of these differences and may seek redress from the Council concerned.</p> <p>Finally, the regulation of dangerous or restricted dogs is also problematic along the border. Jurisdictional problems can arise when investigating dog attacks and making dangerous dog declarations: if the animal(s) involved are from another State. People and their companion dogs can be quite mobile today. If a dog has been declared dangerous on account of its behaviour in one jurisdiction, it is likely to be of just as much concern to the community or State in which it is moving or returning to. Further, an animal may attack a person or another animal while visiting another state. Efforts to investigate and if necessary seize animals in these circumstances can be thwarted due to cross-jurisdictional issues.</p>			

Issue # 10 – Environmental and Water Cycle Management			
Proposed Actions	Who	When	Status
<p>Background: Continuing development of the Tweed Shire and Gold Coast City is placing a considerable strain on the ecology of the region and the continuity and effectiveness of wildlife corridors. Management of shared border catchments and natural areas within the broader landscape presents some unique challenges for each council, such is the complexity of and connectivity between environmental systems. The fact that TSC and GCCC operate under differing state jurisdictions only adds to this complexity.</p> <p>Closer cooperation on catchment and natural areas management in the Tweed- Gold Coast border region has the potential to:</p> <ul style="list-style-type: none"> • increase the profile and community's understanding of cross-border natural resource management issues; • avoid or eliminate as far as practical adverse cross-border impacts; • create opportunities to acquire additional funding for implementing joint-actions/ projects • enable sharing of new knowledge and information to improve understanding and support more informed decision-making 	<p>TSC (Jane LOFTHOUSE Coordinator Natural Resource Management) GCCC (Grant PERIOTT Coordinator Catchment Management and Nigel GREENUP Coordinator Natural Areas Management Unit).</p>	<p>Short-term</p>	<p>To be initiated</p>

OPTIONS:

This initiative does not respond directly to existing corporate or directorate risks – rather it is intended as a proactive response to long term concerns of the Gold Coast and Tweed communities about cross border anomalies.

The initiative is intended to capitalise upon the opportunities provided by the interest of the New South Wales Government and Tweed Shire Council in addressing some of these current concerns.

The risk of doing nothing is that the current problems will continue and may even worsen.

CONCLUSION:

That Council endorses the issues and actions raised in this report and forwards the same to the representative Premiers and New South Wales Cross Border Commissioner, and supports the ongoing engagement process with Gold Coast City Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

There are no immediate financial or resourcing implications for adopting the recommendations contained in this report. Should any projects or initiatives with a funding or resource requirement subsequently be identified, they will be subject to the usual budget scrutiny and approval processes.

It should be noted that from a funding perspective, the Australian Government is increasingly interested in collaborative partnerships, which address wider regional issues, including those that cut across state boundaries and local government areas. Therefore, Council could pursue a number of potential external funding opportunities through adopting this type of approach.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.9 Develop coordinated cross border relationships
- 3.1.9.1 Cross border relationships
- 3.1.9.1.1 Foster and develop cross border relationships with the Queensland State Government and Gold Coast City Council

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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5 [GM-CM] Applications for Financial Assistance 2012/2013 - Festivals and Events Policy

SUBMITTED BY: Communications and Marketing



Supporting Community Life



Strengthening the Economy

SUMMARY OF REPORT:

Council recognises the importance of festivals and events to the quality of life offered in the Tweed and their significant economic benefits to tourism and other industries.

Council's Events Strategy 2011-2016 provides a framework to assist the community and Council develop and support festivals and events in the Tweed. The Festival and Events Policy adopted in 2011 created one annual funding round with applications due on 1 May each year. Through the Tweed Link, Council invited applications for financial assistance from eligible organisations in accordance with its Festivals and Events Policy.

For the first time, applicants have been able to apply for multi-year funding and the recommendation is to provide this. Funding in the subsequent year still requires annual reporting and updating of the business plan already received.

RECOMMENDATION:

That:

1. Council allocates Festival and Events funding for 2012/2013 under the Festivals and Events Policy as follows:

<u>Applicant</u>	<u>Amount</u>
(a) Tweed River Agricultural Society (Murwillumbah Show 2012)	\$7500
(b) Island Style Promotions (Australian Longboard Surfing Festival 2013)	\$5000
(c) QSMSports (Battle on the Border 2013)	\$10,000
(d) Tweed Valley Banana Festival (2012)	\$7500
(e) Tweed Shire Seniors Citizens Committee (Tweed Seniors Expo 2013)	\$7500
(f) Coolangatta-Mt Warning Dragon Boat Club Inc	

	(Bridge to Bridge 2013)	\$1500
(g)	Murwillumbah Rowing Club (Head of the Tweed 2013)	\$1500
(h)	Ukitopia Arts Collective (Ukitopia Festival 2012)	\$3000
(i)	Caldera Farmers Market Murwillumbah Inc (Foodie Friday 2012)	\$3000
(j)	Kids in Need Assoc (Kids in Need Dragon Boat Festival 2012)	\$1500
(k)	Cabarita Beach Pottsville Beach Lions Club Inc (Lions Charity Greenback Fishing Competition 2013)	\$1000
(l)	On Track Community programs Ltd (Tweed Mental Health Awareness – Family Fun Day 2012)	\$1500
(m)	Caldera Environment Centre (World Environment Day 2013)	\$3500
(n)	Tweed River Canine Club (Canine Spectacular 2013)	\$1000
(o)	Cooly Rocks On (2013)	\$17,000
(p)	Tyalgum Festival Committee Inc (Tyalgum Festival of Classical Music and Community Spring Fair 2012)	\$6000
(q)	Murwillumbah Festival of Performing Arts (2012)	\$2000
	TOTAL:	\$80,000

2. Council allocates multi-year funding 2013/2014 and 2014/2015 under the Festivals and Events Policy as follows:

(a)	Tweed River Agricultural Society (Murwillumbah Show)	\$7500
(b)	Island Style Promotions (Australian Longboard Surfing Festival)	\$5000
(c)	Tyalgum Festival Committee Inc (Tyalgum Festival of Classical Music and Community Spring Fair)	\$6000
	TOTAL per year:	\$18,500

3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (a) personnel matters concerning particular individuals (other than councillors).

REPORT:

Council recognises the importance of festivals and events to the quality of life offered in the Tweed and their significant economic benefits to tourism and other industries.

Council's Events Strategy 2011-2016 provides a framework to assist the community and Council develop and support festivals and events in the Tweed. The Festival and Events Policy adopted in 2011 created one annual funding round with applications due on 1 May each year. Through the Tweed Link, Council invited applications for financial assistance from eligible organisations in accordance with its Festivals and Events Policy.

For the first time, applicants have been able to apply for multi-year funding and the recommendation is to provide this. Funding in the subsequent year still requires annual reporting and updating of the business plan already received.

List of applicants:

Applicant	Amount Requested	Festival
Tweed River Agricultural Society Ltd trading as The Murwillumbah Show	\$10,000	The Murwillumbah Show 2-3 November 2012
Island Style Promotions	\$10,000	Australian Longboard Surfing Festival 20-24 March 2013
QSMSPORTS	\$10,000	Battle on the Border 4-6 May 2013
Tweed Valley Banana Festival	\$10,000	Tweed Valley Banana Festival 17-25 August 2012
Murwillumbah Theatre Co Inc	\$1500	The Magic Pudding by Norman Lindsay adapted Andrew James 16 July to 4 November 2012
Tweed Shire Senior Citizens Committee	\$10,000	Tweed Seniors Expo May 2013
Coolangatta-Mt Warning Dragon Boat Club Inc	\$5000	Bridge to Bridge May 2013
Murwillumbah Rowing Club	\$1500	Head of the Tweed (HoTT) 17 June 2013
Ukitopia Arts Collective	\$9000	Ukitopia Festival - A Celebration of Uki Life Arts and Culture 16-18 November 2012

Applicant	Amount Requested	Festival
Caldera Farmers Market Murwillumbah Inc	\$4000	Foodie Friday 30 November 2012
Kids in Need Association	\$1000	Kids in Need Dragon Boat Festival 18 November 2012
Cabarita Beach Pottsville Beach Lions Club Inc	\$3500	Lions Charity Greenback Fishing Competition 9-10 June 2013
On Track Community Programs Ltd	\$5000	Tweed Mental Health Awareness - Family Fun Day 5 October 2012
Caldera Environment Centre	\$4000	World Environment Day 2 June 2013
Tweed River Canine Club	\$1500	Tweed River Canine Club: Canine Spectacular 15-17 March 2013
Cooly Rocks On Festival Inc	\$45,000	Cooly Rocks On 1-11 June 2013
Tyalgum Festival Committee Inc	\$7500	Tyalgum Festival of Classical Music and Community Spring Fair 7-9 September 2012
Murwillumbah Festival of Performing Arts	\$2000	Murwillumbah Festival of Performing Arts 14 June-10 July 2012

Total applied for \$140,500

OPTIONS:

As well as the annual allocation of financial assistance, is an option to allocate multi-year funding for those three applicants who have requested it and provided adequate financial and event management plan for the three year period.

CONCLUSION:

Funding be allocated to festivals and events within the 2012/2013 budget of \$80,000; and the amount of \$18,500 in multi-year funding for 2013/2014 and 2014/2015.

COUNCIL IMPLICATIONS:

a. Policy:

Festivals and Events Policy Version 1.0.

b. Budget/Long Term Financial Plan:

1. An amount of \$80,000 is recommended for distribution in 2012/2013;
2. An amount of \$18,500 is recommended for multi-year funding for 2013/2014 and 2014/2015.

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
 - 2.1.3.9 Develop the Tweed as a community with great festivals and events
 - 2.1.3.9.6 Administer funding assistance in accordance with Festivals Policy to support small to medium festivals and events
- 3 Strengthening the Economy
 - 3.1 Expand employment, tourism and education opportunities
 - 3.1.2 Attract major events to the Tweed
 - 3.1.2.1 Provide assistance and support for potential sports tourism and major events
 - 3.1.2.1.1 Provide assistance and support to Communications and Marketing Coordinator for potential sports tourism and major events

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** - Assessment - Festivals and Events Funding 2012/2013 (ECM51510594)
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6 [GM-CM] Customer Service Charter

SUBMITTED BY: Communications and Marketing



Civic Leadership

SUMMARY OF REPORT:

The draft Customer Service Charter was considered at the Council Meeting of 20 March 2012 and was placed on public exhibition, inviting submissions. No submissions were received. This report recommends that the Policy be adopted.

RECOMMENDATION:

That Council adopts the Customer Service Charter Version 1.2.

REPORT:

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

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

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

The draft policy was considered at the Council Meeting of 20 March 2012 and was placed on public exhibition during the period 3 April to 1 May 2012, inviting submissions. No submissions were received. This report recommends that the Policy be adopted.

OPTIONS:

Not Applicable.

CONCLUSION:

Draft policy to be adopted as proposed.

COUNCIL IMPLICATIONS:

a. Policy:

Customer Service Charter Version 1.2.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.5 Effective communication between Council and Community groups
- 1.2.5.5 Improve Customer service

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Customer Service Charter Version 1.2 (ECM 51470129)
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7 [GM-CM] Online and Social Media Policy

SUBMITTED BY: Communications and Marketing



Civic Leadership

SUMMARY OF REPORT:

The proposed Online and Social Media policy provides guidelines on Council's use of web and social media as communication tools and is expected to evolve as new technologies and networking tools emerge.

The draft policy was considered at the Council Meeting of 20 March 2012 and was placed on public exhibition, inviting submissions. No submissions were received. This report recommends that the Policy be adopted.

RECOMMENDATION:

That Council adopts the "Online and Social Media Policy" Version 1.

REPORT:

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

The draft Online and Social Media Policy was considered at the Council Meeting of 20 March 2012 and was placed on public exhibition during the period 3 April to 1 May 2012, inviting submissions. No submissions were received. This report recommends that the Policy be adopted.

OPTIONS:

Not Applicable.

CONCLUSION:

Draft policy to be adopted as proposed.

COUNCIL IMPLICATIONS:

a. Policy:

This draft policy, upon adoption will become a formal Council Policy.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Online and Social Media Policy Version 1.0 (ECM 51470128)
-

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

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

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

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

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

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

SUBMITTED BY: Director



Civic Leadership

SUMMARY OF REPORT:

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

RECOMMENDATION:

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

REPORT:

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

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

DA No.	DA11/0607
Description of Development:	Dwelling house
Property Address:	Lot 1 DP 1059093 No. 1 Gray Street, Tweed Heads West
Date Granted:	17/5/2012
Development Standard to be Varied:	Clause 32(4) - Aircraft Noise
Zoning:	2(a) Low Density Residential
Justification:	<p>This report relates to Clause 32(4) of LEP which states that the consent authority must not grant consent to the erection of a dwelling house within the 25 or higher ANEF contour unless it imposes a condition on that consent that the building is to meet the building construction requirements of Australian Standard AS2021-1994 (Acoustics-Aircraft noise intrusion-Building siting and construction).</p> <p>If Council accepts the construction component recommendations as contained within the Aircraft Noise Report it will not be in a position to impose a condition on any consent issued for the construction of the dwelling in accordance with the requirements of Clause 32 (4) of the LEP.</p>
Extent:	100%
Authority:	Tweed Shire Council under assumed concurrence

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

No-Legal advice has not been received.
Attachment of Legal Advice-Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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9 [PR-CM] Development Application DA12/0164 for a 2 Storey Dwelling and Swimming Pool at Lot 56 DP 1027531 No. 9 Harper Court, Casuarina

SUBMITTED BY: Building and Environmental Health

FILE NUMBER: DA12/0164 Pt1



Civic Leadership

SUMMARY OF REPORT:

The proposal is to construct a new two storey dwelling and in-ground swimming pool on the subject property.

The applicant has lodged a State Environmental Planning Policy No. 1 (SEPP No. 1) variation as the proposed development will result in overshadowing of the public foreshore.

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all SEPP No. 1 variations greater than 10% to be determined by full Council. Given that the Department of Planning and Infrastructure has advised Council Officers to be conservative with the application of the 10% rule and the difficulties in calculating 10% of the shadow development standard (as it is time based), it has been decided to report this application to Council.

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

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan 1988 regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**
- 2. Development Application DA12/0164 for a 2 storey dwelling and swimming pool at Lot 56 DP 1027531 No. 9 Harper Court, Casuarina be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**

[GEN0015]

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

[GEN0115]

3. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
- As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

5. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

6. A 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]

PRIOR TO COMMENCEMENT OF WORK

7. 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]

- 8. 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]

- 9. 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]

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

[PCW0225]

- 11. 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]

12. 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]

DURING CONSTRUCTION

13. Zone Boundary

- (a) No construction work other than 1.2m high fencing is to be carried out in the 7(f) zone.
- (b) The 7(f) and 2(e) zone boundary is to be clearly identified on site by Registered Surveyor marks prior to start of work.
- (b) No overflow from an infiltration pit shall be discharged over the eastern boundary.

[DUR1035]

14. All landscaping is to comply with the 88B Instrument pertaining to the site.

[DUR1055]

15. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2007 & AS 1926.3 - 2003. (Refer Council's web site www.tweed.nsw.gov.au).

- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

16. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

17. Sewer connections within the 7(f) zone are to comply with the following:

- (a) Two inspection shafts shall be provided to each lot. The first shall be provided immediately adjacent to the connection point provided by the developer. The second inspection shaft at 0.5 metres inside the 2(e) zone boundary on each property. Inspection shafts are to be finished at surface level with a standard bolted trap screw cap and concrete surround.
- (b) Pipe work size for all lots under this approval are to have a 100mm diameter sewer.

[DUR2695]

18. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

19. 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]

20. 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]

21. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

22. 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]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

26. All 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]

27. 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]

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

[DUR0245]

29. 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]

30. 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]

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

[DUR1945]

- 32. 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]

- 33. The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR0445]

- 34. 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]

- 35. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 36. Prior to the issue of an occupation certificate for the use of the swimming pool, the owner is to contact the local Rural Fire Services to arrange and install a static water supply identification plate.**

[POC0315]

- 37. 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]

38. 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]

39. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

40. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

USE

41. Swimming Pools (Building)

(a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

(b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

(c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

42. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

43. 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]

44. The building is to be used for single dwelling purposes only.

[USE0505]

45. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE1245]

REPORT:

Applicant: Sea Breeze Trading Pty Ltd
Owner: Jokke Pty Ltd
Location: Lot 56 DP 1027531 No. 9 Harper Court, Casuarina
Zoning: 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands)
Cost: \$660,000

BACKGROUND:

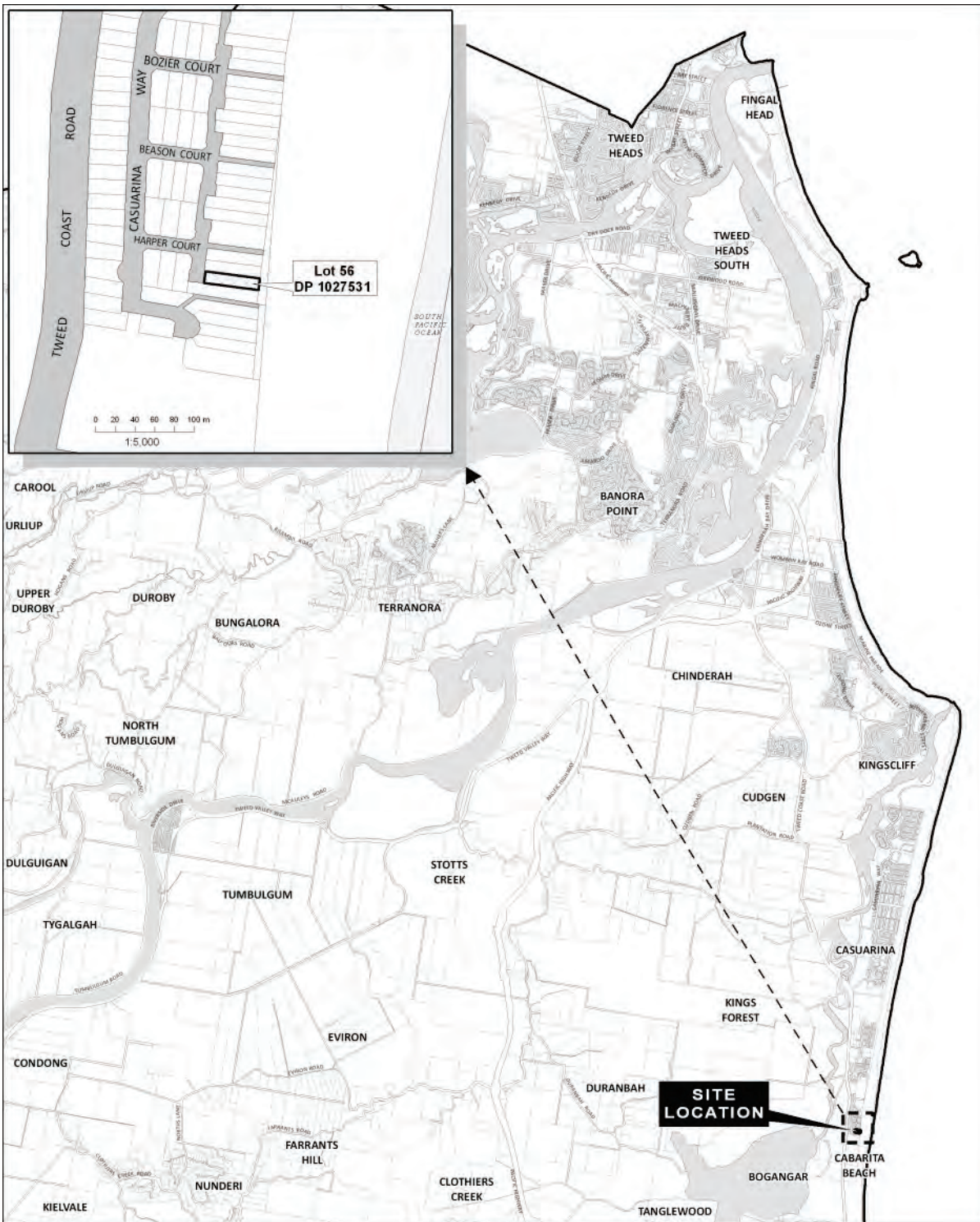
An application has been received to construct a two (2) storey dwelling with an in-ground swimming pool and fencing at the subject property. The property is situated on the eastern side of Harper Court, Casuarina and backs onto the coastal foreshore of Casuarina Beach.

The property is zoned 2(e) Residential Tourism under Tweed Local Environmental Plan 2000 (TLEP 2000) and is located on the eastern side of Harper Court, Casuarina.

A SEPP No. 1 is sought for a variation to the North Coast Regional Environmental Plan 1988 (NCREP 1988) relating to overshadowing of waterfront open space, as the proposed two storey dwelling will cast a shadow on the adjacent waterfront open space.

The application was not required to be notified to adjoining property owners and subsequently no submissions have been received in relation to the proposal.

SITE DIAGRAM:



Locality Plan
 Lot 56 DP 1027531
 No. 9 Harper Court, Casuarina

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "dig before you dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastrre: 06 June, 2012
 © Land and Property Management Authority (LPMA) & Tweed Shire Council.
 Boundaries shown should be considered approximate only.

0 1 2 Km
 1:75,000 @ A4 Portrait
 DO NOT SCALE
 COPY ONLY - NOT CERTIFIED

Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1994
 GDA: Map of Australia, Zone 56

Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

TWEED
 SHIRE COUNCIL

File Path: D:\EPLAN\PROJECTS\PLANS\1027531\1027531_01.dwg, 26/06/2012, 10:00:00 AM

Author: B.M.Baker - Planning Reference Unit

File Printed: 07 June 2012

DEVELOPMENT/ELEVATION PLANS :

SHADOWS CALCULATED USING ARCHICAD SOFTWARE AT CASUARINA, NSW.

SUN STUDY
 HARPER COURT RESIDENCE
 LOT 556, HARPER COURT,
 CASUARINA, NSW
 LATITUDE 28°16'S, LONGITUDE 153°35'S.

DECEMBER 21st



SEPTEMBER/MARCH 21st



JUNE 21st

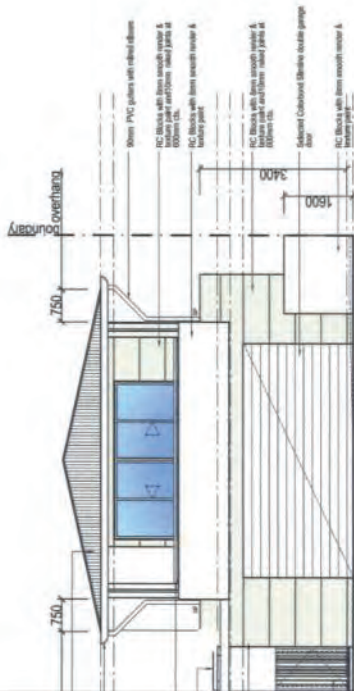
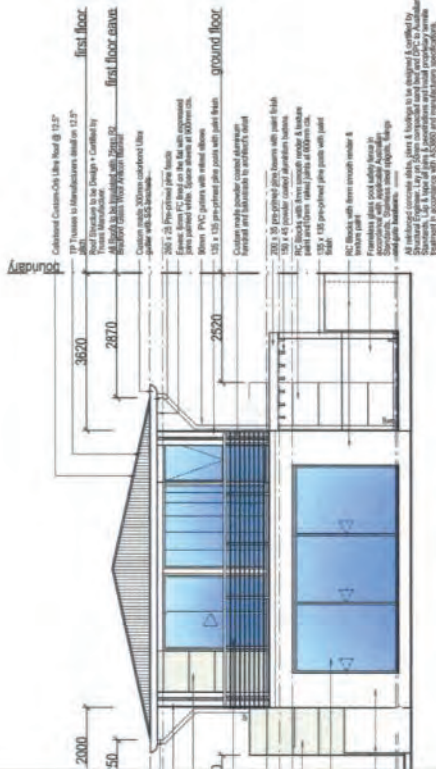


NOTES:

DATE: 15/04/2011
 Drawn by: [Name]
 Checked by: [Name]
 Date of drawings: as per site development plan
 All dimensions are in millimetres unless otherwise stated.
 All dimensions are in millimetres unless otherwise stated.

NO.	DATE	DESCRIPTION
A	15/04/11	Initial Design
B	15/04/11	Architectural Plan
C	15/04/11	Structural Design
D	15/04/11	Site Plan
E	15/04/11	Public Exhibition Design
F	15/04/11	Development Application
G	15/04/11	Development Application

sd scott carpenter
 ARCHITECTS
 570 CASUARINA WAY, CASUARINA NSW 2467
 PH: 023 444 0668 FAX: 023 444 0446 WWW: 0433 229 024
 15/04/11 @ 11:11:11 PM
 HARPER COURT RESIDENCE
 SITE ANALYSIS
 SHADOW DIAGRAMS
 DATE: NOVEMBER 2011
 DRAWN BY: 1113
 CHECKED BY: 1504/11



DISTRIBUTION
 Approved Master Plan
 Approved Architectural
 Approved Schematic Design
 Preliminary Engineering Design
 Final Engineering Design
 Development Application

sd scott carpenter
 ARCHITECT

570 Chambers Way, Coonah, South Australia 5205
 250 GARDNER STREET, PORT AUSTRALIA, SOUTH AUSTRALIA
 scott@scottcarpenterarchitect.com.au

Harper Court Residence
 East & West Elevations

DATE: NOVEMBER 2011 sheet: 1113
 SCALE: 1:500 (A3, 150mm)

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 subject site is zoned 2(e) Residential Tourism. The primary objective of the zone is to encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development.

The secondary objective is to permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity.

Clause 5 - Ecologically Sustainable Development

The proposal is consistent with the objectives of this clause.

Clause 8 - Zone objectives

The proposed development is consistent with the zone objectives.

Clause 15 - Essential Services

All the necessary essential services have been provided to the site as part of the original subdivision.

Clause 16 - Height of Building

The proposed overall height of 6.8m is less than the 9m permissible under Section A1 of Tweed Development Control Plan (Tweed DCP) and complies with the two storey requirement as detailed in Clause 53B of the Tweed LEP 2000.

Clause 17 - Social Impact Assessment

A social impact assessment is not required given the minor nature of the proposal, as the development is a single dwelling in residential area.

Clause 35 - Acid Sulfate Soils

The area contains class 4 acid sulfate soils, which exist at a depth of greater than 2m below surface level. The depth of the excavation for the dwelling and proposed in ground swimming pool is not anticipated to disturb acid soils in the area.

Other Specific Clauses

Clause 36 - Coastal Erosion Hazard Outside Zone 7(f)

The proposal is consistent with the considerations of this clause. The proposed development will not affect the beach or dune system and landscape or scenic quality of the locality, other than in relation to shadowing which is discussed in detail later in this report.

Council's mapping records indicate the subject site is not affected by the 100 year hazard line.

Clause 39A – Bushfire Protection

Council's records indicate the site is bushfire prone land and therefore the application will be conditioned accordingly to comply with the requirements of AS3959- Construction of Buildings in Bushfire Areas.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

Clause 32B – Development Control applies as the NSW Coastal Policy 1997 applies to the subject site.

The proposal is consistent with the NSW Coastal Policy 1997, Coastline Management Manual and North Coast: Design Guidelines.

The proposal will not impede the public's access to, and enjoyment of the foreshore zone.

The applicant's submission and shadow plans demonstrate that the carrying out of the development will result in the waterfront open space to the east of the site being overshadowed before 7.00pm midsummer (daylight saving time).

The applicant is seeking Council's support to assume the Director-General's concurrence in this instance. This matter is discussed in further detail in the SEPP No. 1 variation section within this report.

Clause 33: Coastal hazard areas

The development will have minimal impact on coastal processes. The proposal is consistent with the Coastline Management Manual.

SEPP No. 1 - Development Standards

An objection has been lodged under SEPP No. 1 to vary the development standard provided by clause 32B (4) of the NCREP 1988, which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 7pm mid summer. The shadow diagrams submitted show that the building will only overshadow the coastal reserve to the east at 7pm mid summer.

The proposal seeks a variation to the extent of shadow impacts to the adjacent foreshore reserve to the east. The property adjoining the site is zoned 7(f) Environmental Protection and is considered to be waterfront open space pursuant to this clause. The application was accompanied with a SEPP No. 1 variation and the applicant has provided the following reasons as to why this standard is unreasonable or unnecessary:

- *The area of which will be over shadowed at 7.00pm midsummer is an area that is not useable passive open space.*
- *The existing trees on the foreshore reserve result in significant overshadowing of the reserve and the beach prior to 7.00pm midsummer and 3.00pm mid winter.*
- *The overshadowed area is not useable passive area and does not contain any public amenities or facilities and therefore is not affecting, restricting or alienating the use of a public area.*
- *The shadows do not extend to the beach area during winter.*

It should be noted that Council has previously considered and approved many other similar SEPP No. 1 variation applications for dwellings of a similar bulk and scale, along the Tweed Coast, particularly in the Casuarina subdivisions which have had minor overshadowing encroachments into the coastal foreshore. In relation to this specific proposal, the area of public foreshore land shaded by the dwelling at 7pm mid summer could be up to approximately 350m².

It is considered in this instance that the standard is unreasonable for the following reasons.

Whilst the dwelling will overshadow the coastal reserve, the area of the coastal reserve that will be affected comprises a bicycle/pedestrian pathway, a grassed area and coastal dune vegetation. The shadow will not impact on any areas used by the public for formal recreational activities.

It should also be noted that the neighbouring southern side dwelling is substantially larger than the proposed dwelling and any shadow cast into the foreshore by the proposed dwelling will be generally overshadowed by the existing southern side dwelling, effectively reducing the shadow impact on the foreshore by the proposed dwelling.

Further to the above shadows cast by the trees in the reserve located immediately behind the subject property will have a greater impact on the beach than the dwelling under consideration. The beach is also over 120m from the rear of the property and therefore in this instance it is recommended that Council support this variation request as the shadow cast by the dwelling will have a minimal impact of the shadowing on this area.

SEPP No 71 – Coastal Protection

The development is consistent with the objectives of SEPP 71 and will not impact on the public's enjoyment and access to the foreshore.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX certificate for the proposal and this certificate is consistent with the energy efficiency target.

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

The development is consistent with the objectives of Councils Draft LEP.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

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

Public Domain Amenity

Streetscape

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

The dwelling will be clearly visible from Harper Court and setback 4m from the front property boundary, which is consistent with the existing dwellings within the street and the permitted setback outlined in section B5-Casuarina Beach of Council Development Control Plan.

Public Views and Vistas

The proposal will not result in an unreasonable view loss of the beach and foreshore given the sympathetic overall height of the proposal. The proposed dwelling provides for view corridors for dwellings located on the western side of Harper Court between the dwelling and the side boundary setbacks.

Site Configuration

Impermeable Site Area

The area of the site is 669m², and therefore the maximum impermeable site area permitted at the completion of the development must be not greater than be 65%. The development will create an impermeable area of approximately 52% of the site and will comply with the design control.

External Living Areas

The dwelling makes provision for external living areas in the form of a patio and balconies adjacent to the pool area facing east at the rear property boundary which provide adequate solar access to the dwelling and private open space.

Landscaping

The applicant has provided a landscape plan in conjunction with the proposal, providing screening plants along the side boundaries and shrubs within the front and rear setbacks.

The proposal is consistent with this design control.

Topography, Cut and Fill

The site is relatively flat with a slight slope to the rear of the property. Minimal cut and fill is proposed for the development, which complies with the design controls for Cut and Fill.

Setbacks

The proposal will have a front setback of 4m and a 1.5m setback to the northern side boundary and a 0.9m setback from the southern side boundary, which is consistent with the design requirements outlined in section B5-Casuarina Beach of Councils Development Control Plan.

Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the Development Control Plan. Two off street car parking spaces are proposed behind Council's building and vehicle access to these spaces is considered adequate.

Building Amenity

Sunlight Access

Private open space for the dwelling will receive sufficient access to sunlight. The dwelling includes the provision of balconies and patio areas orientated north adjacent to the pool area and eastern rear boundary. The bulk and scale of the dwelling is in keeping with character of dwellings already approved in the area. As a result shadow impacts cast on neighbouring properties are consistent with what could have been reasonably anticipated by the construction of a dwelling on the subject property.

Visual Privacy

Overlooking into adjoining properties has been minimised with the provision of suitable screening, strategic window positioning along both sides of the dwelling and the use of obscure glass to assist in providing privacy between properties. Existing palm trees along the southern side boundary provide additional screening for the existing pool on the neighbouring property.

Acoustic Privacy

The applicable control relates to air conditioning and other mechanical equipment. A condition of consent has been recommended stating that the noise of an air conditioner, pump or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item.

Natural Ventilation

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

Building Orientation

The dwelling has been sited on the property to optimise solar access and coastal views as well as providing an acceptable street presentation.

External Building Elements

Fences and Walls; Front, Side and Rear

There is no front fence proposed for the development other than a 1.7m wide and 1.6m high masonry wall providing screening to the bin storage area located in the front southern corner of the property.

The southern side boundary fence is an existing 1.8m high rendered concrete block and brush wood fence. On the northern side boundary a 1.8m rendered concrete block fence is proposed, incorporating a 1m wide planter box at its base.

The fencing proposed appears consistent with the design theme of the dwelling and generally consistent with the design controls outlined in Section A1 of Councils Development Controls Plan.

Roof

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

Building Performance

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

Swimming Pools

The proposed swimming pool is set back behind Council's Building line and 1.5m from the northern side property boundary and is consistent with the design control objectives for swimming pools in Section A1.

Floor Space Ratio (FSR)

The maximum FSR applicable for this proposal is 0.65:1. The proposed dwelling is consistent with this design control having an FSR of approximately 0.32:1.

B5-Casuarina Beach

The development is consistent with the design and setback requirements outlined in above control with the open first floor deck being set back 4m from the front property boundary and garage door being sited 5m from the front property boundary. A stamped copy of Architectural plans from the Casuarina Architectural Review Committee has also been submitted to Council with the Development Application.

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

Clause 92(a) Government Coastal Policy

The proposal is consistent with the goals and objectives outlined within 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

The property is in a residential subdivision which has been specifically created for residential development. The proposed development is an architect designed building of high quality and will be in keeping with the architectural style and residential character of the area.

Access, Transport and Traffic

Minimal impact is envisaged as the proposal is a single residence within an approved residential subdivision.

Flora and Fauna

Minimal impact is envisaged and the site was cleared during the creation of the subdivision.

(c) Suitability of the site for the development

Surrounding Landuses/Development

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

The design of the dwelling is in keeping with the residential character of the area

Site Orientation

The building has been centrally located on the property and has been orientated to take advantage of the ocean views to the east. The living areas of the dwelling have been centrally positioned within the dwelling to minimise potential overlooking onto adjacent properties.

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

The property was not required to be notified and subsequently no submissions have been received to the proposal.

(e) Public interest

The development will not prejudice the public interest.

OPTIONS:

1. Council assumes the Director-General's concurrence and approves the development application; or
2. Council does not assume the Director-General's concurrence and refuses the development application.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments with what is considered to be an acceptable variation of Clause 32B of the North Coast Regional Environmental Plan 1988, and is generally consistent with the applicable Council policies. The proposal represents quality urban development which will make a positive contribution to the locality.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Finance Plan:

Not Applicable.

c. Legal:

Should the applicant be dissatisfied with the determination they will have the right to appeal the decision to the Land and Environment Court.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

10 [PR-CM] Development Application DA12/0160 for a Two Storey Dwelling and Swimming Pool at Lot 14 DP 1066506 No. 26 North Point Avenue, Kingscliff

SUBMITTED BY: Building and Environmental Health

FILE NUMBER: DA12/0160 Pt1



Civic Leadership

SUMMARY OF REPORT:

The proposal is to construct a new two storey dwelling and in-ground swimming pool on the subject property.

The applicant has lodged a State Environmental Planning Policy No. 1 (SEPP 1) variation as the proposed development will result in overshadowing of the public foreshore.

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 variations greater than 10% to be determined by full Council. Given that the Department of Planning has advised Council Officers to be conservative with the application of the 10% rule, the difficulties of calculating 10% of the shadow development standard (as it is time based), it has been decided to report this application to Council.

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

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan 1988 regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**
- 2. Development Application DA12/0160 for a two storey dwelling and swimming pool at Lot 14 DP 1066506 No. 26 North Point Avenue, Kingscliff be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**

[GEN0015]

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

[GEN0115]

3. A Construction Certificate approval is to be obtained for all proposed pre-cast concrete panel fencing of any height and masonry fencing in excess of 1.2 metres in height, prior to any construction of the fence being commenced.

Site specific design details or approved generic details prepared by a practicing structural engineer are required to be submitted and approved as part of the Construction Certificate application.

Such structural engineers design details are to confirm that the fence proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components particularly in relation to corrosion and compliance with Tweed Shire Council's policies for "Sewers - Building in Proximity" and provision of appropriate pedestrian sight clearances to footpaths in accordance with Australian Standard AS2890 "Parking Facilities".

[GEN0145]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]]

5. All fencing is to be non-combustible in accordance with the requirement of the 88b instrument for the property and the NSW Rural Fire Service document planning for bushfire protection 2006.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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]

7. Stormwater

(a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

(b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.

- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

8. 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 S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 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 LG Act will then NOT be required.

[PCC1145]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0215]

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

[PCW0225]

11. Residential building work:

- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - in the name and licence number of the principal contractor, and

- the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- the name of the owner-builder, and
 - if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

12. 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]

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

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

[PCW0255]

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

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

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

[PCW0985]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

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

[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

- 21. The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR0445]

- 22. Construction of the dwelling shall comply with Bushfire Attack Level BAL 12.5 in accordance with Australian Standard 3959-2009 Construction of Buildings in Bushfire-prone Areas.**

[DUR0595]

- 23. 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]

24. The development is to be carried out in accordance with the current **BASIX** certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

25. 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]

26. 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]

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

[DUR1945]

28. **Swimming Pools (Building)**

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 - 2003. (Refer Council's web site www.tweed.nsw.gov.au)
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

29. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

30. 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]

31. 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]

32. 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]

33. 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]

34. 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]

35. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

37. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

38. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

39. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

40. 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]

41. The building is to be used for single dwelling purposes only.

[USE0505]

42. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE1245]

43. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on

the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

44. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

45. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[USE1510]

REPORT:

Applicant: Paul Uhlmann Architects
Owner: Mr Paul J Beck
Location: Lot 14 DP 1066506 No. 26 North Point Avenue, Kingscliff
Zoning: 2(f) Tourism
Cost: \$900,000

BACKGROUND:

An application has been received to construct a two (2) storey dwelling with an in-ground swimming pool and fencing at the subject property. The property is zoned 2(f) Tourism under Tweed Local Environmental Plan 2000 (TLEP 2000) and situated on the eastern side of North Point Avenue, Kingscliff and backs onto the coastal foreshore of South Kingscliff Beach.

Under SEPP 1 a variation is sought to the North Coast Regional Environmental Plan 1988 (NCREP 1988) relating to overshadowing of waterfront open space. In this instance the proposed two storey dwelling will cast a shadow on the adjacent waterfront open space.

The application was not required to be notified to adjoining property owners and subsequently no submissions have been received in relation to the proposal.

SITE DIAGRAM:



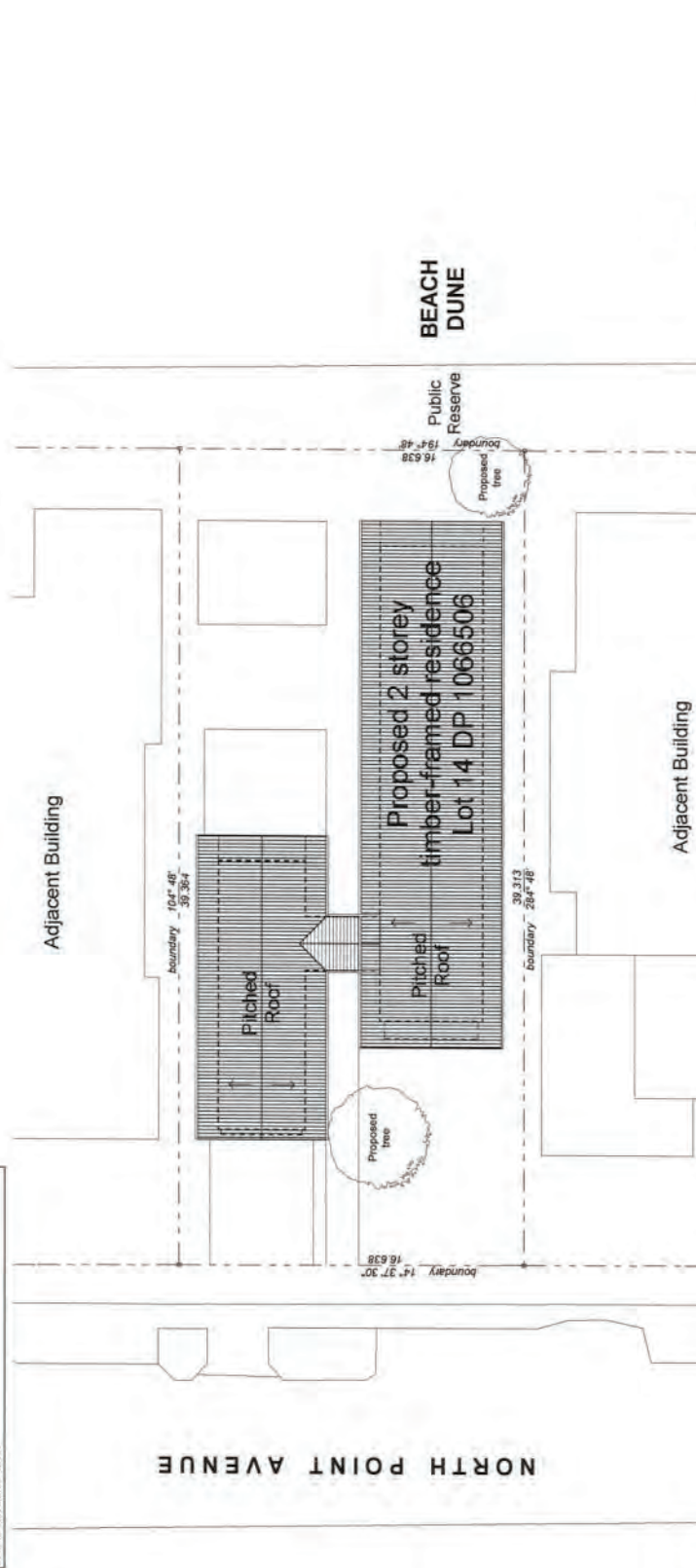
Locality Plan
 Lot 14 DP 1066506
 No. 26 North Point Avenue, Kingscliff

<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and 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 may change without notice. It should not be used for survey or construction purposes and prior to any excavations a "Call before You Dig" enquiry must be made by calling 3110. The information contained on this document remains valid for 30 days only from the date of supply.</p>	<p>Cadastre: 30 May, 2012 © Land and Property Management Authority (LPMA) © Tweed Shire Council. Boundaries shown should be considered approximate only.</p>		<p>Civic and Cultural Centre 3 Tumbulgum Road Manildrah NSW 2484 PO Box 816 Manildrah NSW 2484 T (02) 6570 2400 1300 292 472 F (02) 6570 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>	
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DEVELOPMENT/ELEVATION PLANS:

Site Information	
Site Area - 654.51m ²	
GFA Calculation:	
Ground Floor	Internal - 138.4m ² Garage - 75m ²
First Floor	Internal - 148.1m ²
TOTAL	Internal - 287.5m ² Garage - 75m ² = 375.50m ²
Proposed Deck	
Garage Deck	43.2m ²
Pool deck	11.7m ²
First Floor	10.9m ²
TOTAL FSR	287.5/654.51 = 0.441 (max 0.551)

Floor space ratio is the ratio of the gross floor area of the building on a site. GFA is measured from the internal face of external walls, measured at a height of 1.4m. This includes the area of any balconies, verandahs, pergolas, living areas and balconies with outer walls less than 1.4m, voids above a floor. Stair is calculated once.



Site Plan

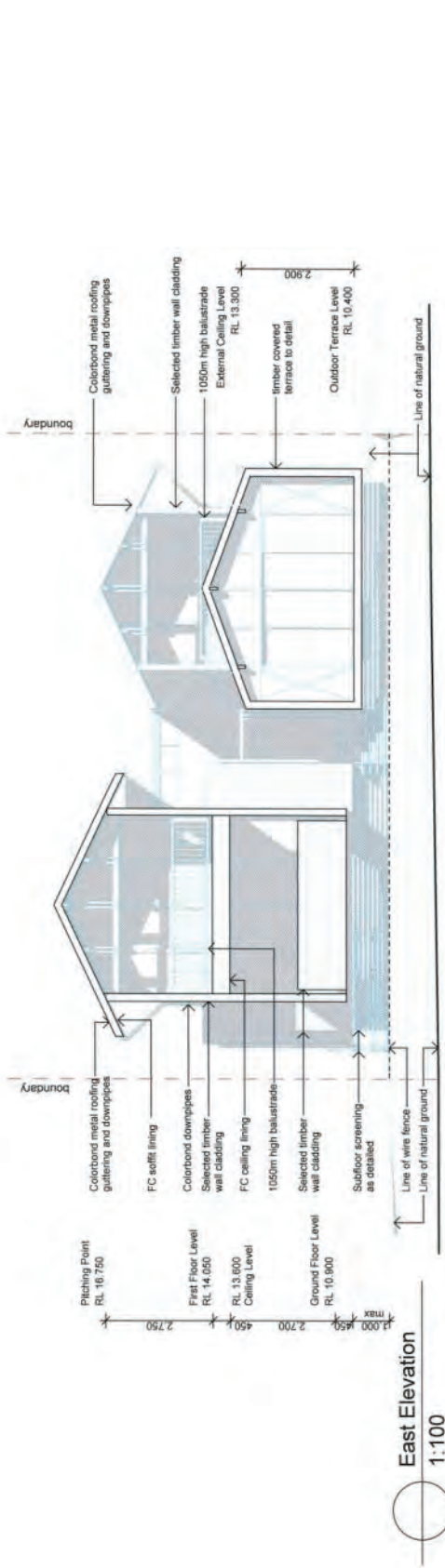
1:200

PRELIMINARY
NOT FOR CONSTRUCTION

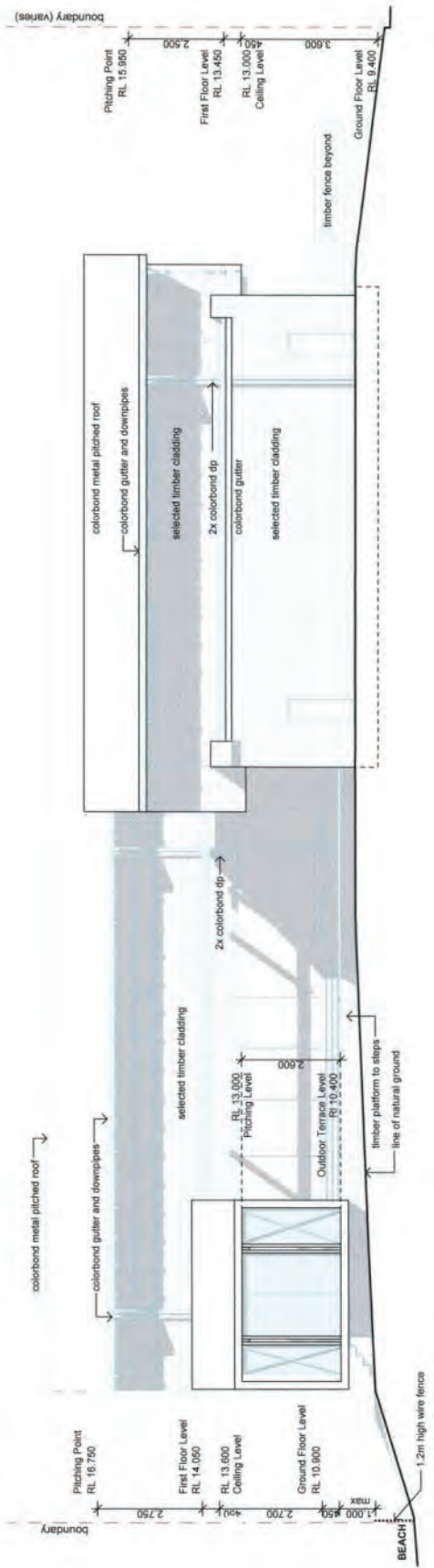
REV.	DATE	BY	CHKD	DESCRIPTION
1	27.03.12	WJH	WJH	Issue
2	27.03.12	WJH	WJH	Issue
3	12.04.12	DA	DA	Issue

18/118 print at
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fx +61 7 5536 3944
www.paul.com.au
paul@paul.com.au

CLIENT Paul Black and Rebecca Hagan
PROJECT 2 storey residence @ Lot 14 DP1066506
20 North Point Ave NSW
DRAWING NO. 12_102
DATE 02.07.12
SCALE 1:200
DRAWN CC
SITE PLAN



East Elevation
1:100



North Elevation
1:100

PRELIMINARY NOT FOR CONSTRUCTION		East and North Elevations	
DATE	27.03.12	DRAWING NO.	12.101
BY	One Inch team	SCALE	1:100
CHK	28.03.12 CDR Mike	DATE	02.02.12
APP	02.04.12 DA Issue	DRAWN	CC
REV		CLIENT	Paul Beck and Rebecca Hogan
		PROJECT	2 storey residence @ Lot 4 DP1 098506
		18/113 units at	
		130/137	
		Cooper Rd	
		North Point NSW	
		ph: +61 7 5339 3271	
		fx: +61 7 5339 3044	
		www.paulhimmann.com.au	
		info@paulhimmann.com.au	
		paulhimmann	
		architects	
		pty ltd	



3pm 21 January



12pm 21 January



PRELIMINARY
NOT FOR CONSTRUCTION

DATE 12/02/12	BY DA Howe	SCALE 1:300	DRAWN CC
DRAWING NO. 12_102		DRAWING NO. WD_10_02	
PROJECT NO. 12_102		DATE 02_02_12	
CLIENT Paul Beck and Rebecca Hogan		DRAWING Shadow Diagram 21 January 12pm & 3pm	
PROJECT 2 story residence @ Lot 14 DP-1066506 20 North Point Ave NSW		PROJECT NO. 12_102	
18/119 Griffiths Rd P.O. Box 1387 Coobera South Australia 5226 Tel: +61 7 8530 2815 Fax: +61 7 8530 2844		DRAWN CC	
 <p>paulhimmann architects Pty Ltd www.pia.com.au pia@pia.com.au</p>		<p>This document is subject to copyright. Verify all dimensions on site and do not scale from drawings. Make any discrepancies to the architect.</p>	

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 subject site is zoned 2(f) Tourism. The primary objective of the zone relates to the provision of integrated tourist development and uses associated with, ancillary to or supportive of the tourist development.

The secondary objectives relate to the provision of high quality residential development being integral and supportive of the primary intent of this zone.

Clause 5 - Ecologically Sustainable Development

The proposal is consistent with the objectives of this clause.

Clause 8 - Zone objectives

The proposed development is consistent with the secondary objective of the zone.

Clause 15 - Essential Services

All the necessary essential services have been provided to the site as part of the original sub-division

Clause 16 - Height of Building

The proposed overall height of the 8.5m is less than the 9m permissible under Section A1 of the Tweed Development Control Plan (DCP) and complies with the two storey requirement as detailed in Clause 53B of the TLEP 2000.

Clause 17 - Social Impact Assessment

A social impact assessment is not required given the minor nature of the proposal, as the development is a single dwelling in residential area.

Clause 35 - Acid Sulfate Soils

The area contains class 4 acid sulfate soils, which exist at a depth of greater than 2m below surface level. As approximately 2m of fill was placed on the site at subdivision stage, the depth of acid soils would be approximately 4m below current surface level. It is not anticipated that the development will impact on the acid soils in the area.

Other Specific Clause

Clause 36 - Coastal Erosion Hazard Outside Zone 7(f)

The proposal is consistent with the considerations of this clause. The proposed development will not affect the beach or dune system and landscape or scenic quality of the locality, other than in relation to shadowing which is discussed in detail later in this report.

Council's mapping records indicate the subject site is not affected by the 100 year hazard line.

Clause 39A – Bushfire Protection

Council's records indicate the site is bushfire prone land and therefore the application will be conditioned accordingly to comply with the requirements of AS3959- Construction of Buildings in Bushfire Areas.

North Coast Regional Environmental Plan 1988

Clause 32B: Coastal Lands

Clause 32B – Development Control applies as the NSW Coastal Policy 1997 applies to the subject site.

The proposal is consistent with the NSW Coastal Policy 1997, Coastline Management Manual and North Coast: Design Guidelines.

The proposal will not impede public access to the foreshore and a concrete public access pathway is positioned on the southern side of the neighbouring site which provides access to the foreshore.

The applicant's submission and shadow plans demonstrate that the carrying out of the development will result in the waterfront open space to the east of the site being overshadowed before 3pm mid winter (standard time) and 6.30pm mid summer (daylight saving time).

The applicant is seeking Council's support to assume the Director-General's concurrence in this instance. This matter is discussed in further detail in the SEPP 1 variation section within this report.

Clause 33: Coastal hazard areas

The development will have minimal impact on coastal processes. The proposal is consistent with the Coastline Management Manual.

State Environmental Planning Policies (SEPP)

SEPP No. 1 - Development Standards

An objection has been lodged under SEPP 1 to vary the development standard provided by clause 32B (4) of the NCREP 1988, which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 6.30pm mid summer. The shadow diagrams submitted show that the building will overshadow the coastal reserve to the east at both of these times.

The proposal seeks a variation to the extent of shadow impacts to the adjacent foreshore reserve to the east. The property adjoining the site is zoned 7(f) Environmental Protection and is considered to be waterfront open space pursuant to this clause. The application was accompanied with a SEPP 1 variation and the applicant has provided the following reasons as to why this standard is unreasonable or unnecessary:

- *The proposed dwelling is generally consistent with the size, scale and setbacks of adjacent buildings in the street and the shadows cast are similar to those of neighbouring sites.*

It should be noted that Council has previously considered and approved many other similar SEPP 1 variation applications for dwellings of a similar bulk and scale, along the Tweed Coast, particularly in the Salt subdivision which had minor overshadowing encroachments into the coastal foreshore. In relation to this specific area of public foreshore land shaded by the dwelling at 6.30pm mid summer could be up to approximately 210m².

It is considered in this instance that the standard is unreasonable for the following reasons.

Whilst the dwelling will overshadow the coastal reserve, the area of the coastal reserve that will be affected comprises a grassed area and coastal dune vegetation. The shadow will not impact on any areas used by the public for formal recreational activities.

It should also be noted that the shadows cast by the trees in the reserve located immediately behind the subject property will have a greater impact on the beach than the dwelling under consideration. The beach is also over 100m from the rear of the property and therefore in this instance it is considered that Council should support this variation request given the minimal impact of the shadowing on this area.

SEPP No 71 – Coastal Protection

The development is consistent with the objectives of SEPP 71 and will not impact on the public's enjoyment and access to the foreshore.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX certificate for the proposal and this certificate is consistent with the energy efficiency targets.

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

The development is consistent with the objectives of Council's Draft LEP

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

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

Public Domain Amenity

Streetscape

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

The dwelling will be clearly visible from North Point Avenue and setback 6m from the front property boundary, which is consistent with the existing dwellings within the street.

Public Views and Vistas

The proposal will not result in an unreasonable view loss of the beach and foreshore given the sympathetic overall height of the proposal. The proposed dwelling provides for view corridors for dwellings located on the western side of North Point Avenue between the dwelling and the side boundary setbacks.

Impermeable Site Area

The area of the site is 654.51m² and therefore the maximum impermeable site area permitted at the completion of the development must be not greater than be 65%. The development will create an impermeable area of approximately 60% of the site and will comply with the design control.

External Living Areas

The dwelling makes provision for external living areas in the form of a patio and terrace areas adjacent to the pool providing adequate solar access to the dwelling and private open space.

Landscaping

The applicant has provided a landscape plan in conjunction with the proposal, providing screening plants along the side boundaries and shrubs within the front and rear setbacks.

The proposal is consistent with this design control.

Topography, Cut and Fill

The site is relatively flat with the rear portion of the site sloping 1m towards the coastal reserve land at the rear of the property. The development itself proposes no cutting or filling of the site.

Setbacks

The proposal will have a front setback of 6m and will have 1.5m and 0.9m setback to the northern side boundary and 0.9m from the southern side boundary.

The set back from the rear boundary is 3m which is consistent the prescribed set back requirement in the 88b instrument for the subdivision.

Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the DCP. Two off street car parking spaces are proposed behind Council's building line and vehicle access to these spaces is considered adequate.

Sunlight Access

Private open space for the dwelling will receive sufficient access to sunlight. The dwelling includes the provision of terraced areas orientated north adjacent to the pool area and eastern rear boundary.

Visual Privacy

Overlooking into adjoining properties has been minimised with the provision of suitable screening and strategic window positioning along both sides of the dwelling.

Acoustic Privacy

The applicable control relates to air conditioning and other mechanical equipment. A condition of consent has been recommended stating the noise of an air conditioner, pump or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item.

Natural Ventilation

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

Building Orientation

The dwelling has been sited on the property to optimise solar access and coastal views as well as providing an acceptable street presentation

Fences and Walls; Front, Side and Rear

The proposal incorporates a 1.5m high timber slatted front fence, sited 2.5m from the front property boundary. The design proposed appear consistent with the design theme of the dwelling and consistent with the design controls outlined in Section A1 of Councils development Controls Plan.

The side fences are existing 1.8m high masonry structures.

Roof

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

Building Performance

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

Swimming Pools

The proposed swimming pool is set back behind Council's building line and 1.5m from the northern side property boundary and is consistent with the design control objectives for swimming pools in Section A1.

Floor Space Ratio (FSR)

The maximum FSR applicable for this proposal is 0.65:1. The proposed dwelling is consistent with this design control having an FSR of approximately 0.44:1.

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

Clause 92(a) Government Coastal Policy

The proposal is consistent with the goals and objectives outlined within 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

The property is in a residential subdivision which has been specifically created for residential development. The proposed development is an architect designed

building of high quality and will be in keeping with the architectural style and residential character of the area.

Access, Transport and Traffic

Minimal impact is envisaged as the proposal is a single residence within an approved residential subdivision.

Flora and Fauna

Minimal impact is envisaged as the site has been cleared during the creation of the subdivision.

(c) Suitability of the site for the development

Surrounding Landuses/Development

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

The design of the dwelling is in keeping with the residential character of the area

Site Orientation

The building has been centrally located on the property and has been orientated to take advantage of the ocean views to the east. The living areas of the dwelling have been centrally positioned within the dwelling to minimise potential overlooking onto adjacent properties.

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

The property was not required to be notified and subsequently no submissions have been received in relation to the proposal.

(e) Public interest

The development will not prejudice the public interest.

OPTIONS:

1. Council assumes the Director-General's concurrence and approves the development application; or
2. Council does not assume the Director General's concurrence and refuses the development application.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation of Clause 32B of the NCREP, and is generally

consistent with the applicable Council policies. The proposal represents quality urban development which will make a positive contribution to the locality.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Finance Plan:

Not Applicable

c. Legal:

Should the applicant be dissatisfied with the determination they will have the right to appeal the decision to the Land and environment Court.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

11 [PR-CM] Development Application DA12/0125 for a Two Storey Dwelling and Inground Swimming Pool at Lot 46 DP 1027531 No. 7 Beason Court, Casuarina

SUBMITTED BY: Building and Environmental Health

FILE NUMBER: DA12/0125 Pt1



Civic Leadership

SUMMARY OF REPORT:

An application has been received to construct a two storey dwelling and inground swimming pool on 7 Beason Court, Casuarina. The property is a beachfront lot and is affected by a number of constraints such as bushfire.

The applicant has lodged a State Environmental Planning Policy No. 1 (SEPP No. 1) variation as the proposed development will result in overshadowing of the public foreshore.

This development application is being reported to Council to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all SEPP No. 1 variations greater than 10% to be determined by full Council. Given that the Department of Planning and Infrastructure has advised Council Officers to be conservative with the application of the 10% rule and the difficulties in calculating 10% of the shadow development standard (as it is time based), it has been decided to report this application to Council.

The application was notified to adjoining property owners (2 letters) and one (1) submission was received. The objectors' main concerns with the proposal were the overlooking issues from the rooftop garden and that a portion of the dwelling was located within the 7(f) zone. The proposal was modified showing the proposed dwelling clear of the 7(f) zone and the application will be suitably conditioned prohibiting the use of the rooftop garden area as an external living area.

On the balance of the assessment of the relevant planning matters, it is considered that the proposed development is suitable for approval, subject to conditions.

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan 1988 regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**

2. **Development Application DA12/0125 for a two storey dwelling and in-ground swimming pool at Lot 46 DP 1027531 No. 7 Beason Court, Casuarina be approved subject to the following conditions:**

GENERAL

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

[GEN0015]

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

[GEN0115]

3. **The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.**

[GEN0300]]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. Stormwater

- (a) **Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.**
- (b) **All roof water shall be discharged to infiltration pits located wholly within the subject allotment.**
- (c) **The infiltration rate for sizing infiltration devices shall be 3m per day:**
- **As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.**
- (d) **Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.**
- (e) **Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).**
- (f) **If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).**
- (g) **All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.**

- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

5. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

6. A 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]

PRIOR TO COMMENCEMENT OF WORK

7. 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]

8. 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]

9. 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]

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

[PCW0225]

11. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

12. 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]

13. 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,

(i) 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]

DURING CONSTRUCTION

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

[DUR0005]

15. **Zone Boundary**

- (a) No construction work other than 1.2m high fencing is to be carried out in the 7(f) zone.
- (b) The 7(f) and 2(e) zone boundary is to be clearly identified on site by Registered Surveyor marks prior to start of work.
- (c) No overflow from an infiltration pit shall be discharged over the eastern boundary.

[DUR1035]

16. All landscaping is to comply with the 88B Instrument pertaining to the site.

[DUR1055]

17. 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]

18. Construction of the dwelling shall comply with Bushfire Attack Level (BAL) 19 in accordance with Australian Standard 3959-1999 Construction of Buildings in Bushfire-prone Areas.

[DUR0595]

19. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

20. 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]

21. 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]

22. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

23. 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]

24. 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]

25. 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]

26. 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]

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

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

[DUR1005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

30. 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]

31. 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]

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

[DUR1945]

33. 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]

34. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

35. 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]

36. 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]

37. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in

accordance with Australian Standard AS 1926.1 - 2007 & AS 1926.3 - 2003. (Refer Council's web site www.tweed.nsw.gov.au)

- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

38. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

39. The swimming pool pump shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DUR2835]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

40. 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]

41. 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]

42. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

43. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

44. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

USE

45. 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]

46. The building is to be used for single dwelling purposes only.

[USE0505]

47. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE1245]

48. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing (Section 7 Swimming Pool Act 1992).
- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

49. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

50. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[USE1510]

51. The planted roof above the proposed garage is not to be used as an external living area

[USENS01]

REPORT:

Applicant: Drew Heath Architects
Owner: Mr Steven L Snow
Location: Lot 46 DP 1027531 No. 7 Beason Court, Casuarina
Zoning: 2(e) Residential Tourist & 7(f) Environmental Protection (Coastal Lands)
Cost: \$450,000

BACKGROUND:

The property is zoned 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands) under Tweed Local Environmental Plan 2000 (TLEP 2000) and is located on the eastern side of Beason Court, Casuarina. The property is currently vacant and is bounded by residential land to the north, a beach access path to the south and to the east a coastal reserve (waterfront open space).

An application has been received to construct a new two (2) storey dwelling and inground swimming pool on the subject property.

A SEPP No. 1 is sought for a variation to the North Coast Regional Environmental Plan 1988 (NCREP 1988) relating to overshadowing of waterfront open space, as the proposed two (2) storey dwelling will cast a shadow on the adjacent waterfront open space.

SITE DIAGRAM:



Locality Plan

Lot 46 DP 1027531
No. 7 Beason Court, Casuarina

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Cadastre: 02 May, 2012
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0 1 2 Km
1:75,000 @ A4 Portrait
DO NOT SCALE
COPY ONLY - NOT CERTIFIED

GDA
Map Projection: Universal Transverse Mercator
Horizontal datum: Geocentric Datum of Australia 1984
Grid: Map Grid of Australia, Zone 56

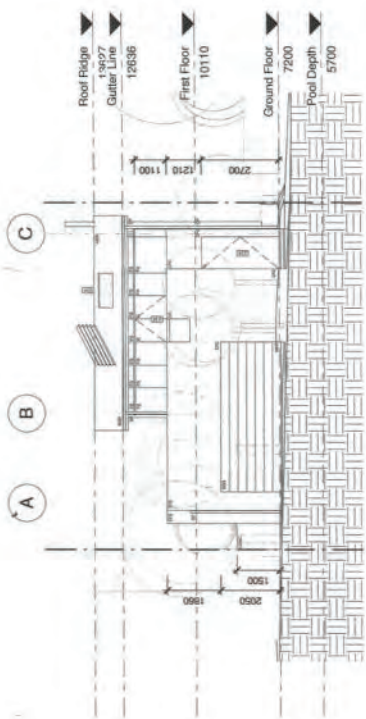
Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484
T | (02) 6678 2400 | 1300 292 872
F | (02) 6678 2429
W | www.tweed.nsw.gov.au
E | planning@form@tweed.nsw.gov.au



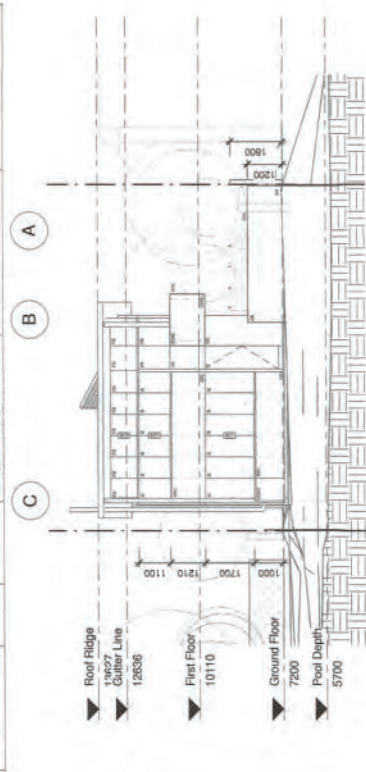
DATA PROVIDED BY: 02 MAY 2012

Window/door size:	Dimension	Maximum size (square metres)	Type	Material	Finish
W1	M	20.0	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic single clear	sliding, no shading
W2	N	8.3	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W3	H	5.6	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W4	N	8.5	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W5	N	25.8	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W6	N	1.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W7	S	1.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W8	S	6.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W9	S	2.5	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W10	S	15.1	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W11	E	26.6	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W12	W	8.8	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		
W13	W	3.0	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)		

Window/door size:	Dimension	Maximum size (square metres)	Type	Material	Finish	Overhead eaves
W1	M	20.0	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W2	N	8.3	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W3	H	5.6	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W4	N	8.5	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W5	N	25.8	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W6	N	1.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	none	none	not overhead eaves
W7	S	1.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	none	none	not overhead eaves
W8	S	6.7	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W9	S	2.5	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W10	S	15.1	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	2.4m high, 5.4 m eaves
W11	E	26.6	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	not overhead eaves
W12	W	8.8	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	not overhead eaves
W13	W	3.0	Improved aluminium, single pyrolytic, low-e (U-value=1.48, BHGC=1.46)	aluminium, moulded plastic/bakelony 450 mm	aluminium, moulded plastic/bakelony 450 mm	not overhead eaves



WESTERN ELEV.
VIEW FROM BEASON COURT (STREET FACADE)



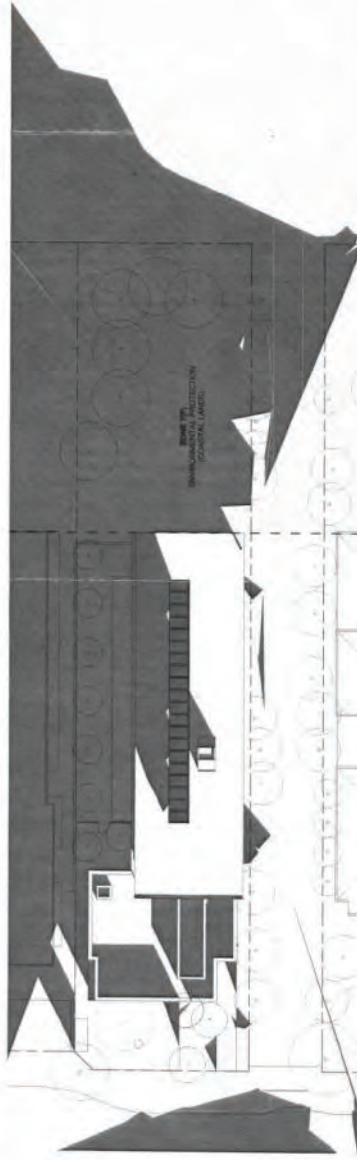
EASTERN ELEV.
VIEW FROM COASTLANDS

NOT FOR CONSTRUCTION



<p>draw heath architects 4 Lynton St, Westbury Park VIC 3088 Ph: 03 9450 1176 Fax: 03 9450 1177 Email: info@drawheath.com.au www.drawheath.com.au</p>	<p>EAST & WEST ELEVATION PROJECT NUMBER: DA091401-01 DATE: 09/14 DRAWN BY: JH CHECKED BY: JH SCALE: 1:100</p>						
<p>BASE NOTES</p> <p>1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED.</p> <p>2. FINISHES ARE AS SHOWN ON THE DRAWINGS UNLESS OTHERWISE SPECIFIED.</p> <p>3. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL CONSTRUCTION METHODS.</p> <p>4. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING STANDARDS.</p> <p>5. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING CODES.</p> <p>6. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL CONSTRUCTION METHODS.</p> <p>7. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING STANDARDS.</p> <p>8. ALL WORK IS TO BE ACCORDING TO THE CURRENT EDITIONS OF THE NATIONAL BUILDING CODES.</p>	<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>09/14</td> <td>ISSUED FOR PERMIT</td> </tr> </table>	NO.	DATE	DESCRIPTION	1	09/14	ISSUED FOR PERMIT
NO.	DATE	DESCRIPTION					
1	09/14	ISSUED FOR PERMIT					

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DECEMBER 1830
OVERSHADOWS ADJ. RESERVE

*AMENDED
SHADOW PLAN.*



SHADOW DIAGRAM	
PROJECT NUMBER	D12012.02.01
DATE	25th April 2012
DRAWN BY	AJF/AF
APPLICATION	Shelley Drive
	1/200

drew heath architects
 1/124 West St
 Melbourne VIC 3000
 Tel: 03 9247 7700
 Fax: 03 9247 7701
 www.drewheath.com.au



NOT FOR CONSTRUCTION

NAME	DATE	DESCRIPTION

18/06/12 1:18:31 PM

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 aims and objectives of the plan are not compromised by the proposed development.

Clause 5 - Ecologically Sustainable Development

For the scale of this development compliance with the submitted BASIX certificate achieves the objectives of this clause.

Clause 8 - Zone objectives

The subject site is zoned 2(e) Residential Tourist. The primary objective of the zone is to encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities. The secondary objectives permits other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.

The proposed development is generally consistent with the objectives of the zone.

The subject site is also part zoned 7(f) Environmental Protection (Coastal Lands). The proposed development does not encroach this zone.

Clause 15 - Essential Services

All essential services are available within the area.

Clause 16 - Height of Building

The proposed development is two storeys with a maximum height of 7m and therefore complies with the maximum height limits of TLEP 2000 and Tweed Development Control Plan Section A1 (Tweed DCP Section A1).

Clause 17 - Social Impact Assessment

A social impact assessment is not required given the relatively minor nature of the proposal being satisfied that it is unlikely to have a significant social or economic impact in the locality.

Clause 35 - Acid Sulfate Soils

The area contains class 4 acid sulphate soils, which exist at a depth of greater than 2m below surface level. Given that the site was disturbed and filled during the creation of the subdivision it is not anticipated that the development will impact on the acid soils in the area.

Other Specific Clauses

Clause 36 - Coastal Erosion Hazard Outside Zone 7(f)

The proposal is consistent with the considerations of this clause. The proposed development will not affect the beach or dune system and landscape or scenic quality of the locality, other than in relation to shadowing which is discussed in detail later in this report.

Council's mapping records indicate the subject site is clear of the 100 year hazard line.

Clause 39A – Bushfire Protection

Council's records indicate that the site is bushfire prone. The proposal is consistent with the considerations of this clause. Conditions placed on this consent are in keeping with the Planning for Bushfire Protection 2006 document.

State Environmental Planning Policies (SEPPs)

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

Clause 32B – Development Control applies as the NSW Coastal Policy 1997 applies to the subject site.

The proposal is consistent with the NSW Coastal Policy 1997, Coastline Management Manual and North Coast: Design Guidelines.

The proposal will not impede public access to the foreshore.

The applicant's submission and shadow plans demonstrate that the carrying out the development will result in the waterfront open space to the east of the site being overshadowed before 3pm mid winter (standard time) and 7pm mid summer (daylight saving time).

The applicant is seeking Council's support to assume the concurrence of the Director-General of the Department of Planning and Infrastructure in this

instance. This matter is discussed in further detail in the SEPP No. 1 variation section within this report.

Clause 33: Coastal hazard areas

The development will have minimal impact on coastal processes. The proposal is not inconsistent with the Coastline Management Manual.

SEPP No. 1 - Development Standards

An objection has been lodged under SEPP No. 1 to vary the development standard provided by Clause 32B (4) of the NCREP 1988, which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 7pm mid summer. The shadow diagrams submitted show that the building will overshadow the coastal reserve to the east only in mid summer beginning at 5pm.

The proposal seeks a variation to the extent of shadow impacts to the adjacent foreshore reserve to the east. The property adjoining the site is zoned 7(f) Environmental Protection and is considered to be waterfront open space pursuant to this clause. The application was accompanied with a SEPP No. 1 variation and the applicant has provided the following reasons as to why this standard is unreasonable or unnecessary:

- *"The proposed development is consistent with other development throughout the area which also overshadow the open cycle way area.*
- *The proposed development is smaller than the neighbouring dwellings and setback 20m from the rear boundary.*
- *There will not be any overshadowing to the beach itself.*
- *The area that is overshadowed is also vegetated and is not as such a usable area for people."*

Generally, the above points are agreed to and it is considered in this instance that the standard is unreasonable for the following reasons.

Whilst the dwelling will overshadow the coastal reserve, the area of the coastal reserve that will be affected comprises a grassed area and coastal dune vegetation and a cycle way. The shadow will not impact on areas used for formal recreational activities.

It should be noted that the shadows cast by the trees in the reserve located immediately behind the subject property will have a greater impact on the beach than the dwelling under consideration and in the most part intercept the dwelling shadows. The beach is over 100m from the rear of the property.

Council has granted many other approvals for dwellings along the Tweed Coast, particularly in the Salt and Casuarina subdivision that have similar minor overshadowing encroachments into the coastal foreshore and it is considered that in this instance Council should also support this request.

SEPP No 71 – Coastal Protection

The development is generally consistent with the objectives of SEPP 71 and will not impact on the public's enjoyment and access to the foreshore.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has provided a BASIX certificate for the proposal which is consistent with the required energy target.

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

None apparent.

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

Tweed Development Control Plan (Tweed DCP)

A1-Residential and Tourist Development Code

This section applies to all residential and tourist development within Tweed Shire, except to the extent of inconsistency with a site specific development provision contained in the TLEP 2000 or adopted area specific Tweed DCP.

Public Domain Amenity

Streetscape

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

Public Views and Vistas

The proposal will not result in an unreasonable view loss of the beach and foreshore given that the proposed height of the new dwelling complies with the two (2) storey limitation as specified in the TLEP 2000 and the 9m maximum height in Tweed DCP Section A1.

Site Configuration

Deep soil zones (DSZs)

The front and rear deep soils zones comply with the controls and objectives of the plan.

Impermeable Site Area

The current provisions of Tweed DCP Section A1 limit the maximum allowable impervious surface area of the site to 65% for allotments between 500m² and 750m². The area of the subject site is 684m² and therefore the maximum

impermeable area permitted at the completion of the development would be 404m². The proposal has a calculated impervious area of 64%.

External Living Areas

The dwelling makes provision for external living areas in the form of a patio and terrace areas adjacent to the pool providing adequate solar access to the dwelling and private open space.

Landscaping

The applicant has provided a landscape plan in conjunction with the proposal which is considered generally consistent with this design control.

Topography, Cut and Fill

Minimal cut and fill is proposed with the construction of the dwelling, which complies with the design controls outlined in Tweed DCP Section A1.

Setbacks

The proposed development is setback 4.8m from the front boundary which is considered acceptable and consistent with the controls with the dwelling on the adjoining property to the north setback 3.75m from the front boundary.

A rear setback of 20m is proposed and complies.

Side setbacks of 900mm are proposed and do not comply with the required 1.5m setback for a two (2) storey dwelling specified under Tweed DCP Section A1. However the side setbacks do comply with the required side boundary setbacks prescribed within the Site Specific Tweed DCP Section B5 Casuarina and are therefore considered acceptable.

Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the Tweed DCP. Two (2) off street car parking spaces in the garage located at ground floor level within the dwelling are proposed. Vehicle access to these spaces is considered adequate

Height

Building Height

The maximum height of the dwelling is 7m which is consistent with the current maximum design control of 9m.

Ceiling Height

The architectural plans show a minimum floor to ceiling height of 2.7m and 2.4m which complies with the relevant controls.

Building Amenity

Sunlight Access

Private open space for the dwelling will receive sufficient access to sunlight. The dwelling includes the provision of terraced areas orientated north adjacent to the pool area and eastern rear boundary.

Overshadowing will occur on the adjoining properties however impacts are considered in keeping with what could be reasonably expected by the neighbouring dwelling as the proposed development is in keeping with the bulk and scale of existing dwellings in the area.

Visual Privacy

Overlooking into adjoining properties has been minimised with the provision of suitable setbacks and strategic window positioning along both sides of the dwelling.

Acoustic Privacy

The applicable control relates to air conditioning and other mechanical equipment. A condition of consent has been recommended stating the noise of an air conditioner, pump or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item.

View Sharing

This matter has been discussed previously in this report and found to be satisfactory.

Natural Ventilation

The design of the dwelling provides for adequate natural ventilation.

Building Orientation

The dwelling has been sited on the property to optimise solar access and coastal views as well as providing an acceptable street presentation.

Roof

The design of the roof being generally flat is consistent with the design requirements of Tweed DCP Section A1. A condition regarding the implementation of non-reflective roof materials has been recommended in the conditions.

Building Performance

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

Swimming Pools

The proposed swimming pool is set back behind Council's Building line and over 1.5m from the northern side property boundary and is consistent with the design control objectives for swimming pools in Tweed DCP Section A1.

Floor Space Ratio (FSR)

The current Tweed DCP Section A1 provisions control the maximum allowable floor area of a dwelling in relation to the total area of the site, as a means of matching the building scale with the capacity of the site and local area.

The proposed site has an area of 684m² and the dwelling has an approximate 'floor area' as defined by the DCP of 321m² which complies with the current prescribed allowance applying the 0.65:1 ratio being 0.47:1.

A2-Site Access and Parking Code

The development will comply with the requirements of Tweed DCP Section A2 in relation to vehicle access and parking. Two (2) car spaces have been provided in the garage located at ground floor level within the dwelling.

A11-Public Notification of Development Proposals

In accordance with Tweed DCP Section A11, the development was notified to the adjoining property owners. During the two (2) week notification period, one (1) objection was received.

The main points of the objection received include:

1. The encroachment of the balcony/verandah at the rear of the proposed dwelling into the 7(f) zone.
2. The use of the planted roof as an entertainment area, which would affect the privacy of the adjoining property at No. 6 Beason Court.

The proposal was modified showing the proposed dwelling clear of the 7(f) zone and the application will be suitably conditioned prohibiting the use of the rooftop garden area as an external living area to address the issues raised in the objection.

B5-Casuarina Beach

The proposed development is generally consistent with the applicable design principles outlined in Tweed DCP Section B5 with a minor variation required in relation to the front setback being 4.856m. A minimum 5m setback to the wall of

a double garage is required under Tweed DCP Section B5 however a variation of 144mm is considered acceptable and consistent with other developments throughout the area.

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

Clause 92(a) Government Coastal Policy

The proposal is consistent with the goals and objectives outlined within 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

The property is within a residential subdivision which has been specifically created for residential development. The proposed development is an architect designed building of high quality and will be in keeping with the architectural style and residential character of the area.

Access, Transport and Traffic

Minimal impact is envisaged, the proposal is a single residence within an approved residential subdivision.

Flora and Fauna

Minimal impact is envisaged, the site has been cleared during the creation of the subdivision.

(c) Suitability of the site for the development

Surrounding Landuses/Development

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

The design of the dwelling is in keeping with the residential character of the area.

Topography

The building platform was created at subdivision stage and is generally flat, but has an approximate fall of 10% from the building platform to the eastern rear property boundary.

Site Orientation

The building has been located 4.865m back from the front property boundary. The site is rectangular in shape with the western front boundary facing Beason

Court, the northern side boundary adjoining another residential property, the eastern rear boundary adjoins a coastal reserve and the southern side boundary adjoins a beach access path.

The living areas of the dwelling have been mainly orientated to the east and north to optimise ocean views and solar access to the north.

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

One (1) submission was received in response to Council's notification of this Development Application, raising concerns for the development. These matters have been addressed previously in this report.

(e) Public interest

The development will not prejudice the public interest.

OPTIONS:

1. Council assumes the concurrence of the Director-General of the Department of Planning and Infrastructure and approves the development application; or
2. Council does not assume the Director General's concurrence and refuses the development application, providing reasons for refusal.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation of Clause 32B of the NCREP 1988, and is generally consistent with the applicable Council policies. The proposal represents quality urban development which will make a positive contribution to the locality. It is considered that the proposed development is suitable for approval, subject to conditions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The applicant or objectors have the right to appeal the decision which would incur financial costs to Council in defence.

c. Legal:

Should the applicant be dissatisfied with the determination they have the right to appeal the decision in the Land and Environmental Court.

Should the application be approved there is potential for the objectors to lodge an appeal against the adequacy of the processing of the application.

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
- 1.1.1.4 Assessment of new developments and building works (Building & Environmental Health unit)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0230 Pt1



Civic Leadership

SUMMARY OF REPORT:

Council is in receipt of an application for an eight (8) lot subdivision at the above address. During assessment of the application, a number of issues were raised, in particular with respect to stormwater drainage, geotechnical stability and the ecological impact of the proposal.

Due to the topography of the site, stormwater drainage is currently conveyed through adjoining allotments, in some cases through Council piping infrastructure (though not formalised easements). The proposed development is considered to increase the quantity of stormwater which would be conveyed through these adjoining allotments.

The applicant has not demonstrated to Council that adequate stormwater infrastructure will be provided to service the subject development. It is considered that easements through adjoining allotments are required in order to provide sufficient stormwater drainage to the proposal. The applicant has indicated that he has not been able to negotiate the provision of these and has requested that Council resume the easements to facilitate the development. Council officers are not in favour of this course of action and as such, it is not possible to determine that adequate stormwater provision has been provided as part of this application.

The application is reported to Council on the recommendation of the Director Planning and Regulation.

The requested information in relation to geotechnical or ecological issues has not been submitted to Council officers to allow adequate assessment to be undertaken in this regard.

Having regard to relevant statutory controls the proposed development would contravene the provisions of the Tweed Local Environmental Plan 2000, the North Coast Regional Environmental Plan 1988, and Tweed Shire Council's Development Control Plan A5-Subdivision Manual and is considered to be contrary to the proper planning and sustainable development of the area and therefore it is recommended that the proposed development be refused.

RECOMMENDATION:

That Development Application DA11/0230 for an eight (8) lot subdivision at Lot 2 DP 626198 No. 178 Byangum Road, Murwillumbah be refused for the following reasons:

- 1. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 4 of Tweed Local Environmental Plan 2000 as insufficient information has been provided to enable determination as to whether the development is likely to have a significant impact on threatened species, populations or ecological communities.**
- 2. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 5 of Tweed Local Environmental Plan 2000 as insufficient information has been provided to enable determination that the proposal will avoid serious or irreversible damage to the environment.**
- 3. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 8 of Tweed Local Environmental Plan 2000 as adequate information has not been provided to demonstrate that the proposal will not have an unacceptable cumulative impact on the community or locality.**
- 4. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 15 of Tweed Local Environmental Plan 2000 as it has not been demonstrated that facilities for the removal or disposal of drainage are available for the subject site or arrangements satisfactory to the consent authority have been made in this regard.**
- 5. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 43 of North Coast Regional Environmental Plan 1988 as it is not possible to determine that council are satisfied that the density of the (future) dwellings have been maximised without adversely affecting the environmental features of the land, given that insufficient ecological information has been provided.**
- 6. Pursuant to Section 79C (1) (a)(iii) the proposed development is contrary to the provisions of Tweed Shire Council Development Control Plan A5- Subdivision Manual, with particular regard to A5.4 Urban Subdivision Design Guidelines & Development Standards for Environmental Constraints and Stormwater Runoff, Drainage, Waterways and Flooding.**
- 7. Pursuant to Section 79C (1) (b) the development is likely to have an unacceptable impact on the natural environment having regard to the threatened species, populations or ecological communities on the site.**
- 8. Pursuant to Section 79C (1) (d) and (e) the development proposal does not adequately address issues raised by public submissions and is not considered to be in the public interest having regard to potential impacts on surrounding properties and the natural environment in the area which have not been adequately addressed or resolved in the subject application.**

REPORT:

Applicant: Byangum Holdings Pty Ltd
Owner: Byangum Holdings Pty Ltd
Location: Lot 2 DP 626198; No. 178 Byangum Road, Murwillumbah
Zoning: 2(a) Low Density Residential
Cost: \$320,000

BACKGROUND:

Site History

Council records indicate two previous applications on this site, both related to the existing dwelling:

- 0232/93B- Building Application (Historic) - shade structure. Approved 11 March 1993; and
- 1250/87B- Building Application (Historic) – swimming pool. Approved 10 December 1987.

The Subject Site

The subject site covers a total area of 1.322ha and is irregular in shape with frontage to Byangum Road and Tombonda Road. The topography on the site is undulating, with ground levels varying from 40m AHD to 20m AHD. The site is surrounded by low density residential development, with exception of the road frontage as described above.

At present there is a single storey dwelling house to the north of the site and a shed located adjacent to the southern site boundary, with the remainder of the site comprising of slashed grassland or regenerating rainforest vegetation species. Council's Natural Resource Management Unit has noted that two threatened flora species were recorded on site in the form of two Coolamon and a Fine-leaved Tuckeroo.

The Proposed Development

The applicant seeks Council consent for a subdivision comprising 8 lots, configured as outlined below.

Lot Number	Area	Access Arrangements
Lot 1	2282m ² (contains an existing dwelling house) (2090m ² excluding axe handle)	Battleaxe frontage to Byangum Road – access via reciprocal right of carriageway
Lot 2	1154m ² (776m ² excluding handle)	As above
Lot 3	1197m ² (896m ² excluding handle)	As above
Lot 4	1211m ² (840m ² excluding handle)	As above
Lot 5	1255m ² (864m ² excluding handle)	As above
Lot 6	727m ²	Frontage to and access from Byangum Road
Lot 7	756m ²	Frontage to and access from Tombonda Road
Lot 8	4688m ² (4475m ² excluding handle)	Battleaxe frontage to Byangum Road 6.37m wide

It is proposed to carry out the development in 3 Stages, as follows:

Stage 1 - Lots 6 and 7

- Lot 6 will be independently accessed and serviced from Byangum Road.
- Lot 7 will be independently accessed and serviced from Tombonda Road.
 - The proposed stormwater drainage line through Lot 7 is intended to be constructed as part of Stage 1 (including the appropriate easement) but connection of the stormwater line to the existing system in Tombonda Road would not occur until Stage 3.

Stage 2 - Lot 1

- This lot incorporates the existing dwelling house and it is proposed that the existing access driveway, water supply, sewer connection, power and telephone services would be retained. Any necessary changes to access, servicing, etc. would occur with Stage 3.

Stage 3 – Lots 2, 3, 4, 5, and 8

- This includes the construction of the reciprocal right of carriageway and all necessary permanent services.

Development Constraints

Stormwater Drainage

At present stormwater drainage from the site is conveyed from an existing piped drainage network traversing through the existing allotment and neighbouring Lot 1 DP 626198 and Lot 87 DP 253421. There is no formal easement over the existing piped infrastructure traversing through Lot 87 DP 253421.

The proposed development will result in a change to the stormwater discharged from the site. The Applicant has not provided appropriate assessment to determine if the existing piped drainage network currently traversing through the existing subject parcel and

neighbouring Lot 1 DP 626198, or the existing piped drainage network traversing through Lot 87 DP 253421 has adequate capacity to convey the required piped and overland stormwater adequately. Furthermore it has not been demonstrated that an easement can be obtained through neighbouring Lot 82 DP 253421, to provide a legal right to discharge overland flow from proposed Lot 3 to Tombonda Road.

The applicant requested that Council acquire easements over adjacent land (Lots 82, 86 & 87 DP 253421) as attempts to negotiate between the applicant and subject landowners has been unsuccessful. This request was reviewed and it was determined that the applicant be advised that *'Council's preferred and most equitable course action in relation to stormwater (at subject property) would be for the owner to purchase the adjoining property, create the necessary drainage infrastructure and easements and then resell the property with the encumbrances.'*

Subsequent to this, it was indicated that the applicant intended to contact the Tweed Shire Councillors with respect to the resuming of easements, however following an extension of time provided to resolve this issue, no further progress has been demonstrated to the file. As such, given the time that this development application has been with Council the applicant was requested to withdraw the application. The applicant requested that the Development Application be approved with these outstanding issues dealt with by way of Deferred Commencement conditions. Following consultation with Council's Development Engineer, it is considered to be contrary to the proper planning and sustainable development of the area to approve the development.

Geotechnical Stability

A Broadscale Geotechnical Engineering Assessment was submitted as part of this application. It is noted that this assessment states that the geotechnical investigation did not include an assessment of the stability of the site or individual sites. An extract from this report states *'It is recommended that geotechnical advice be sourced to determine the stability of the embankment (to the southern side of Right of Way) and possible rectification if required'*.

Submissions received through public notification raised concerns with respect to geotechnical stability arising from the proposed development. The applicant's response to these concerns was that the original Geotechnical Report does not identify significant instability issues. This has not been accepted by Council's Development Engineer as a satisfactory response to the public concerns and it is considered that this issue should be appropriately addressed and resolved prior to any grant of consent. Consequently, the application is not supported by Council officers.

Flora and fauna

This application was referred to Council's Natural Resource Management Unit having regard to the vegetation removal associated with the proposal. Comments received raised concern with regard to the potential for the development to impact upon two (2) threatened species as listed under the Threatened Species Conservation Act 1995.

Specifically, two (2) of the three (3) recorded threatened flora species would be significantly impacted upon by the proposed subdivision works, likely resulting in the demise of these trees. A mature Coolamon (*Syzygium moorei*) located within proposed Lot 2 would be

affected by driveway construction works and a mature Fine-leaved Tuckeroo (*Lepiderema pulchella*) is located in an easement adjacent to proposed Lot 4 within which sewer and drainage pipes are proposed.

A request for further information to enable proper assessment of the application from an ecological perspective was requested of the applicant on 16 September 2011. A response was received from the applicant on 13 December 2011, however the information received was deemed insufficient and the applicant was sent a further request for further Information on 22 December 2011. No further response has been received with respect to the proposal. As such, Council's Natural Resource Management Unit has recommended that the application as it stands should be refused as insufficient information has been provided to Council to determine that the proposal will not have a significant impact on threatened species, populations or ecological communities in accordance with Section 5A of the Environmental Planning and Assessment Act 1979.

Public Submissions

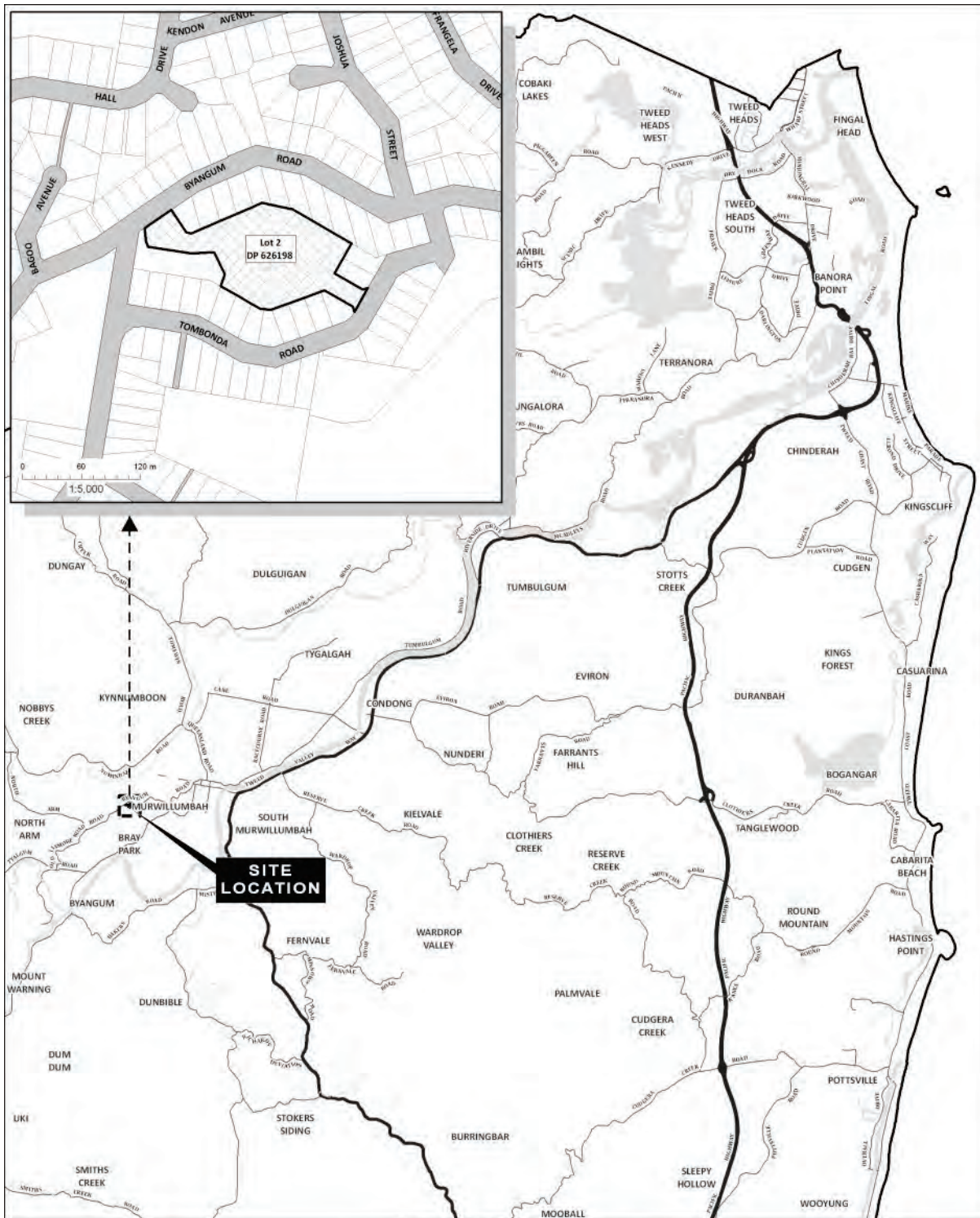
The proposed development attracted three (3) submissions following notification.

Stormwater runoff and/or geotechnical stability was raised by all three submissions, whilst individually, the submissions raised issues with the existing underground storage tank, the existing shed on site, the siting and location of future dwellings and the provision of excess fill associated with the proposal.

Summary

Having regard to relevant statutory controls the proposed eight (8) lot subdivision development would contravene the provisions of the Tweed Local Environmental Plan 2000, the North Coast Regional Environmental Plan 1988, Tweed Shire Council's Development Control Plan A5-Subdivision Manual and is considered to be contrary to the proper planning and sustainable development of the area. The proposed development is therefore recommended for refusal.

SITE DIAGRAM:



Locality Plan

DA11/0230 - Lot 2 DP 626198
No. 178 Byangum Road MURWILLUMBAH

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 to negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs (which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and approximate 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 1310. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 28 May 2012
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Boundaries shown should be considered approximate only.



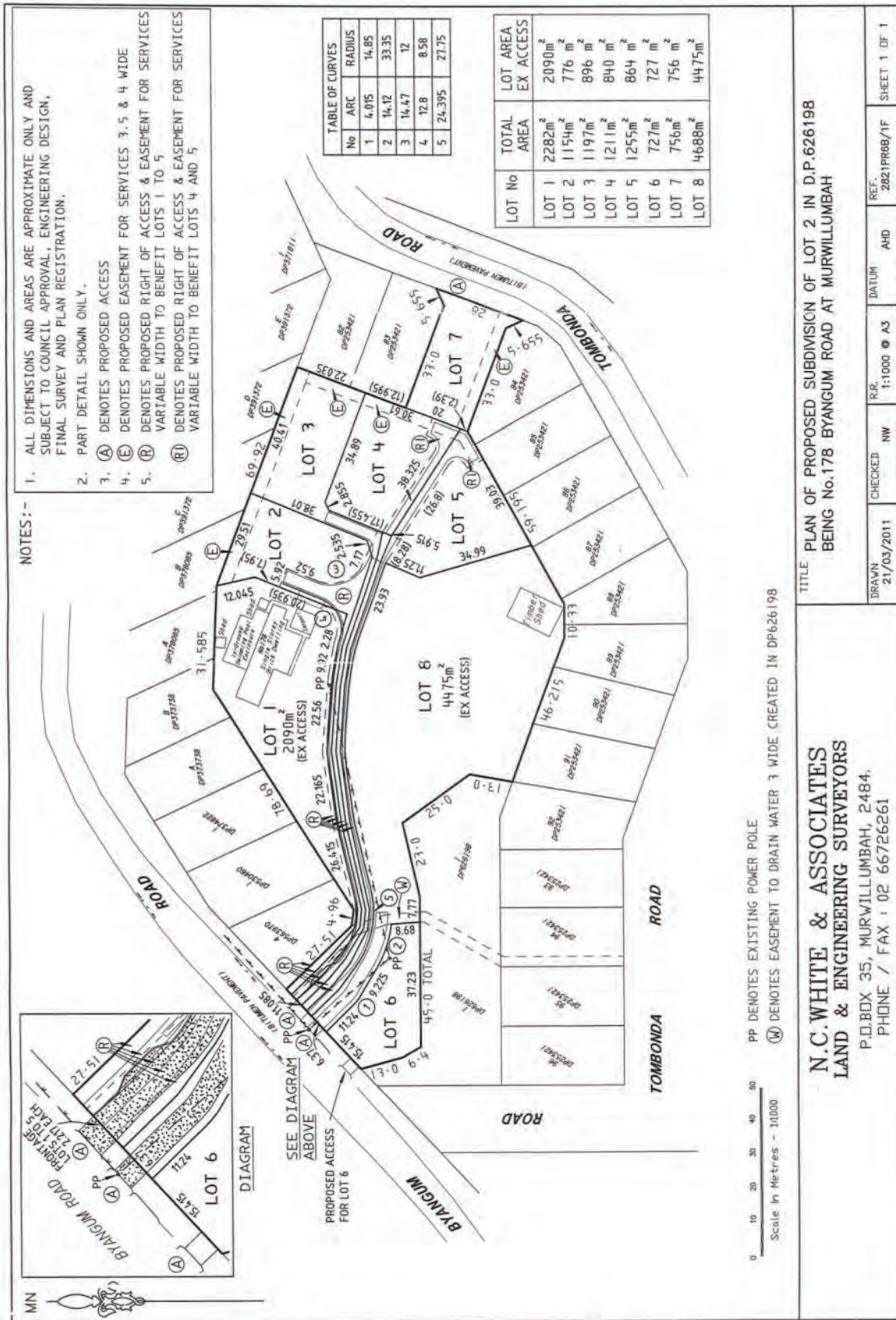
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Author: Tweed Shire - Planning Services Unit

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Murwillumbah NSW 2484
T | (02) 6678 2400 | 1300 292 872
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W | www.tweed.nsw.gov.au
E | planningreform@tweed.nsw.gov.au



DEVELOPMENT/ELEVATION PLANS:



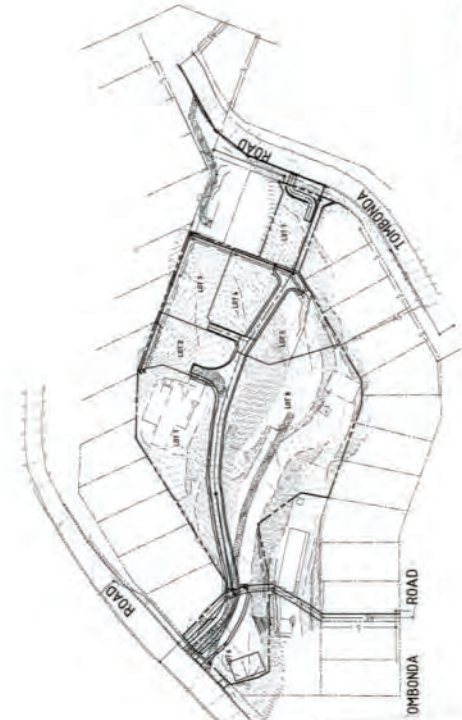
RESIDENTIAL DEVELOPMENT

AT - 178 BYANGUM ROAD, MURWILLUMBAH
 FOR - MAXIMUM HOLDINGS PTY. LTD.

JOB NUMBER Y.03.03

DRAWING SCHEDULE

- Sk.1 COVER SHEET
- Sk.2 ROADWORKS AND DRAINAGE PLAN - SHEET 1 OF 2
- Sk.3 ROADWORKS AND DRAINAGE PLAN - SHEET 2 OF 2
- Sk.4 DRIVEWAY LONGITUDINAL SECTION
- Sk.5 DRIVEWAY CROSS SECTIONS AND DETAILS
- Sk.6 SEWERAGE AND WATER RETICULATION PLAN - SHEET 1 OF 2
- Sk.7 SEWERAGE AND WATER RETICULATION PLAN - SHEET 2 OF 2
- Sk.8 STORMWATER MANAGEMENT PLAN
- Sk.9 EROSION AND SEDIMENT CONTROL PLAN
- Sk.10 SIGHT DISTANCE DIAGRAM



PRELIMINARY
 NOT FOR CONSTRUCTION



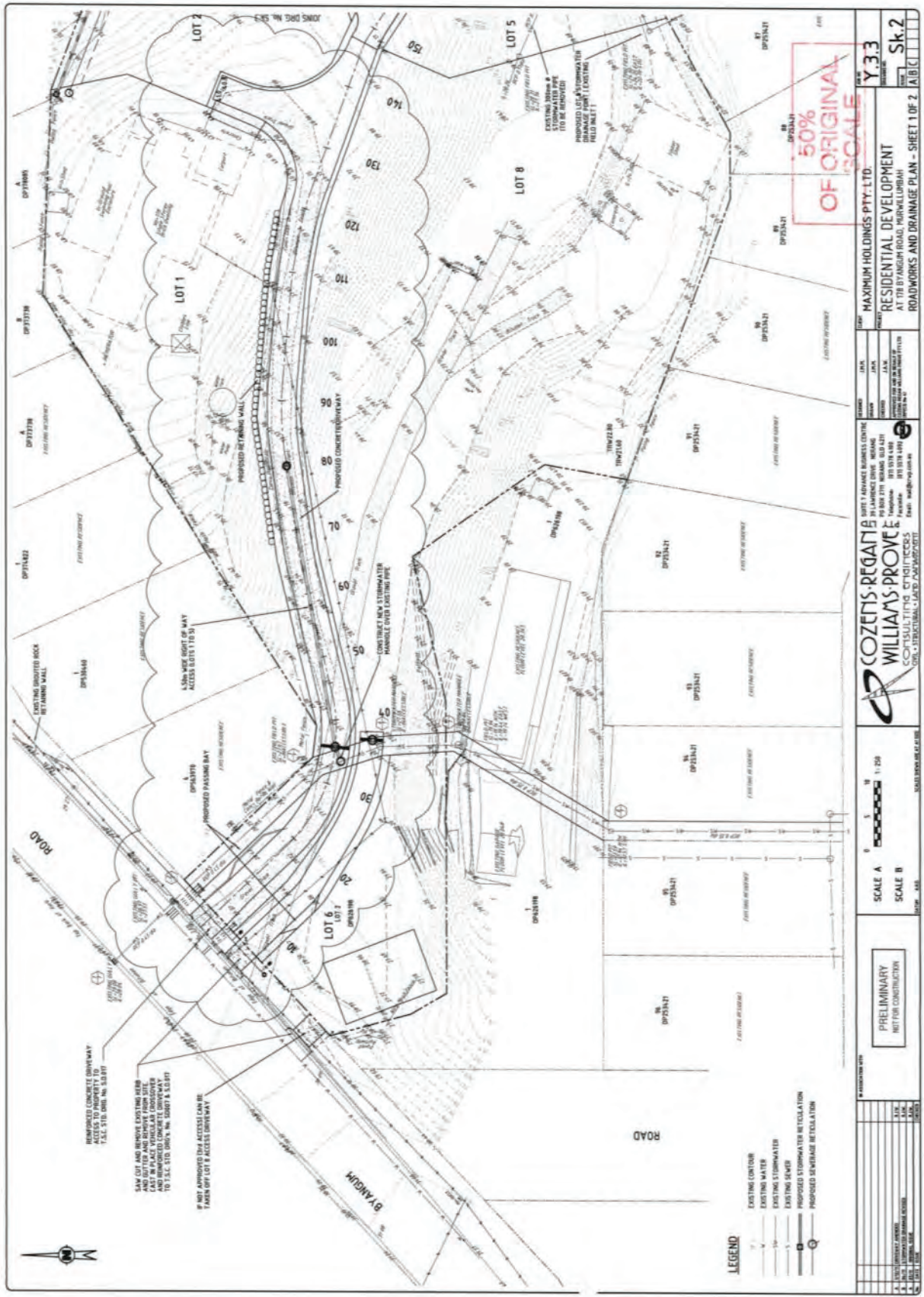
LOCALITY PLAN

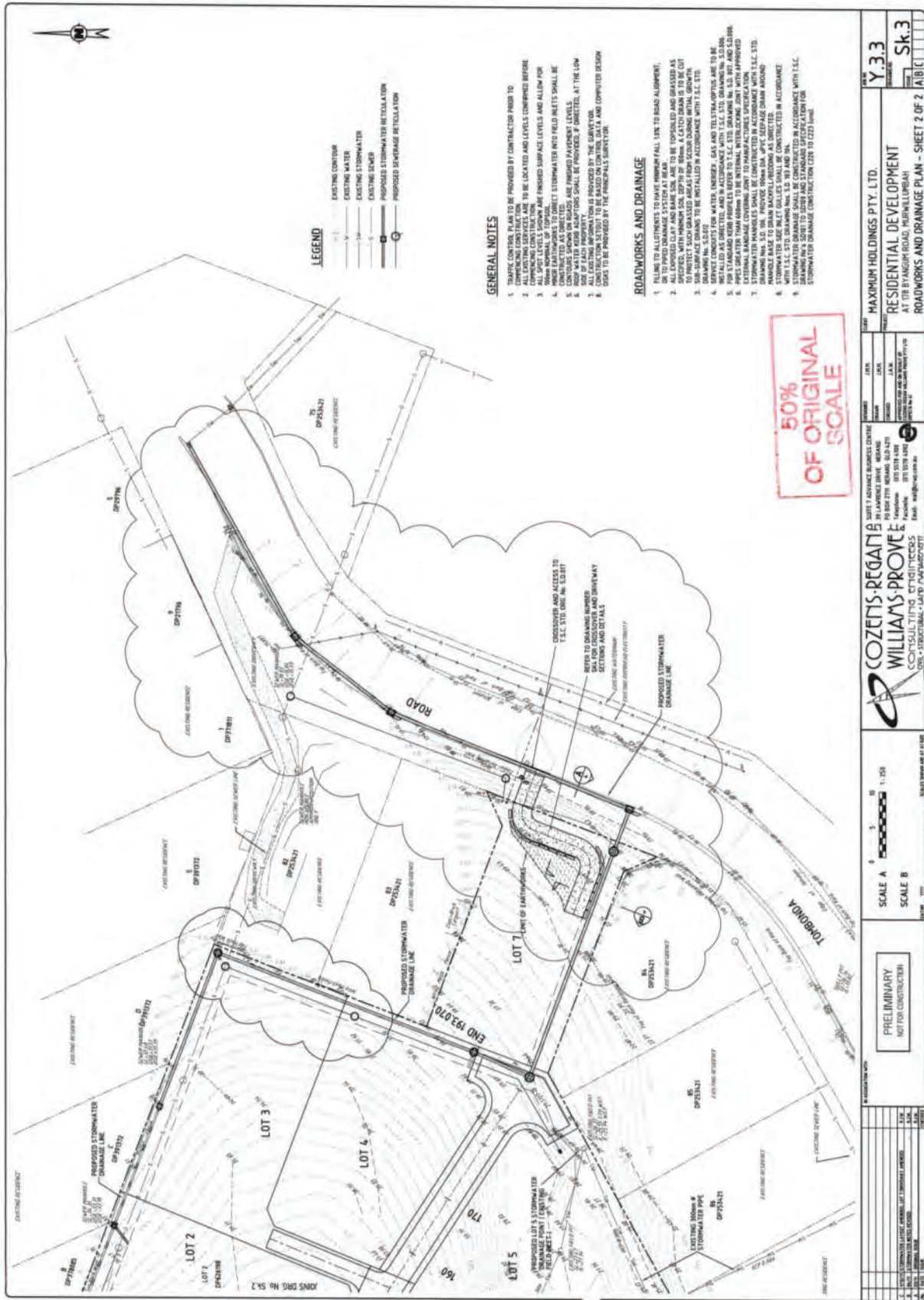
50%
 OF ORIGINAL
 SCALE

COZENS · REGAN SUITE 7 ADVANCE BUSINESS CENTRE
 39 LAWRENCE DRIVE · NERANG
 PO BOX 2711 NERANG QLD 4271
 Telephone: (07) 5578 4100
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WILLIAMS · PROVEY
 CONSULTING ENGINEERS
 CIVIL · STRUCTURAL · LAND MANAGEMENT

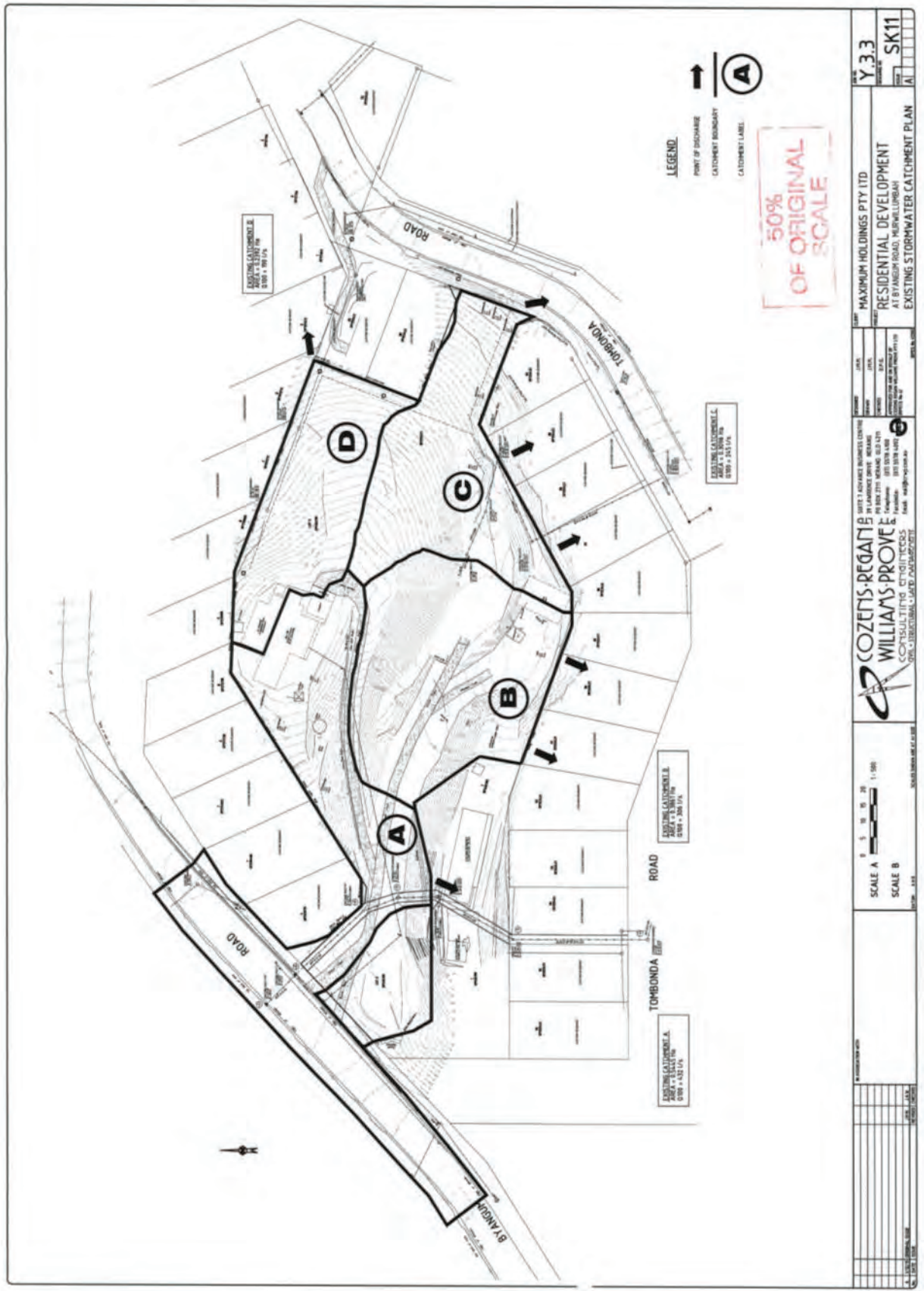
DATE	Y.03.03
SCALE	Sk.1
REVISION	A B C

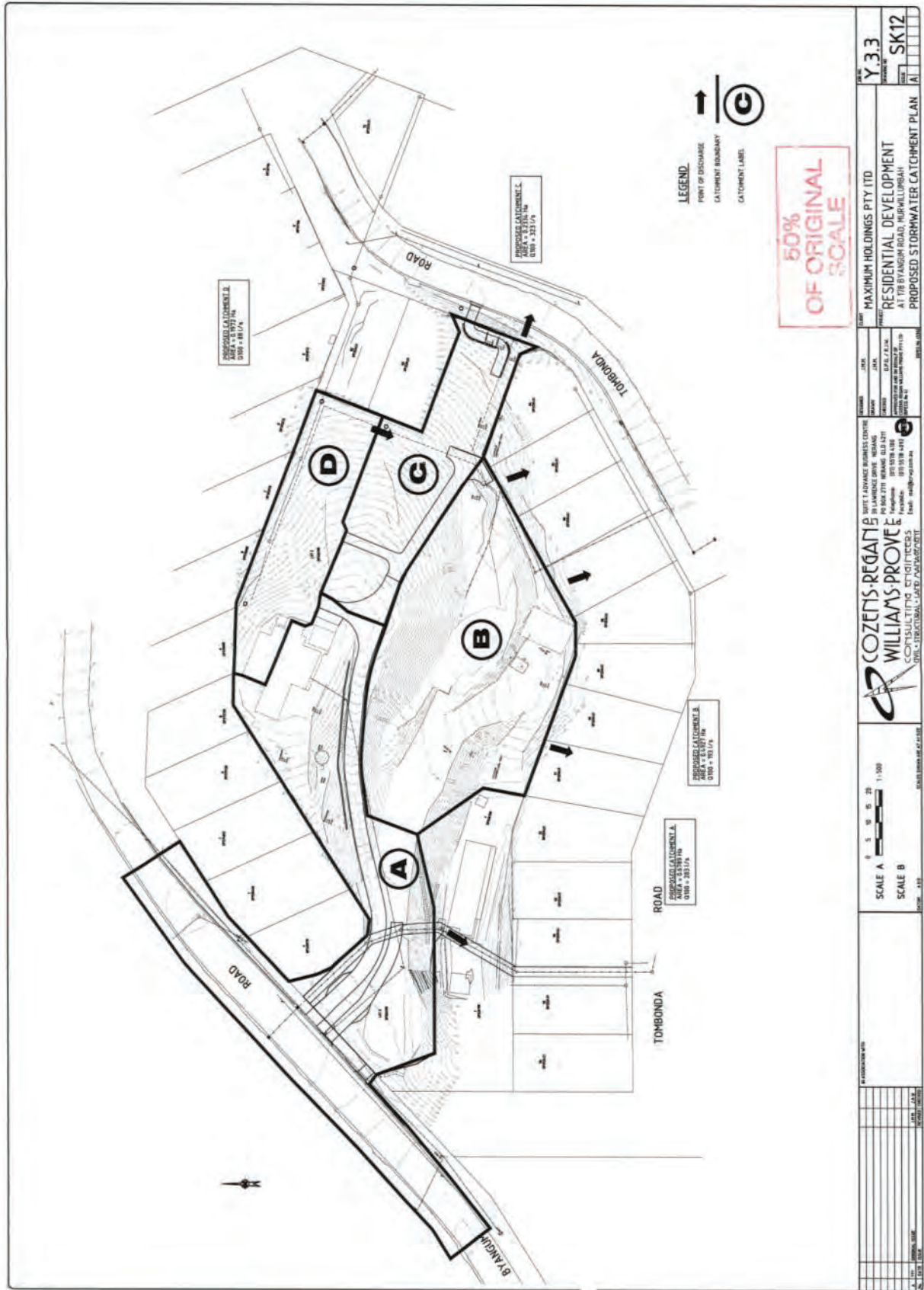


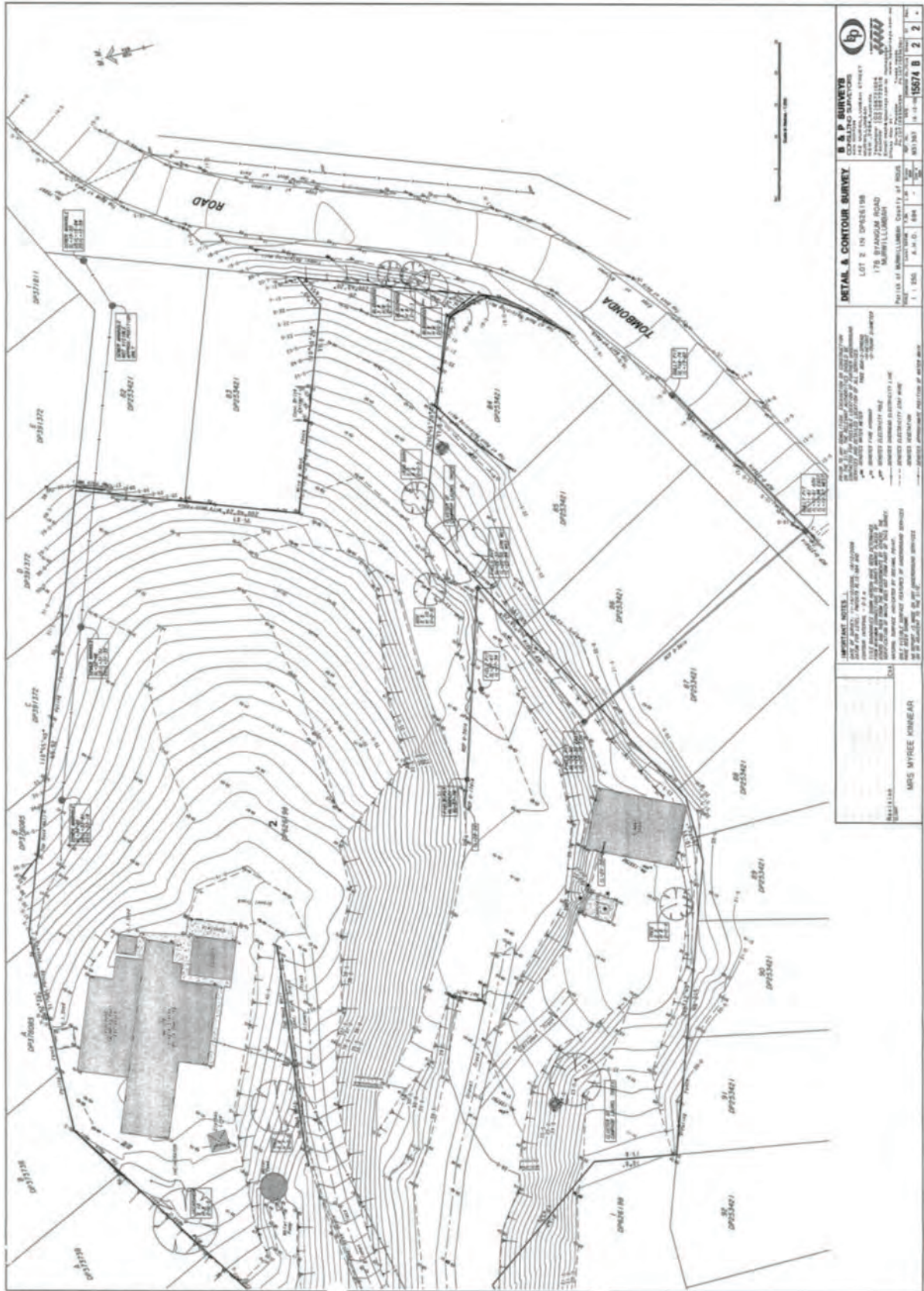


50% OF ORIGINAL SCALE

PROJECT	MAXIMUM HOLDINGS PTY. LTD.	DATE	Y.3.3
CLIENT	RESIDENTIAL DEVELOPMENT	SCALE A	1:250
DESIGNER	COZENS-REGAN WILLIAMS PROVE CONSULTING ENGINEERS	SCALE B	1:500
DATE	15/06/2011	PRELIMINARY NOT FOR CONSTRUCTION	
PROJECT NO.	10000000000000000000	NOT FOR CONSTRUCTION	
CLIENT NO.	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT NAME	RESIDENTIAL DEVELOPMENT	NOT FOR CONSTRUCTION	
PROJECT ADDRESS	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT CITY	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT STATE	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT POSTCODE	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT PHONE	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT FAX	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT EMAIL	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT WEBSITE	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT CONTACT	10000000000000000000	NOT FOR CONSTRUCTION	
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PROJECT CONTACT FAX	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT CONTACT EMAIL	10000000000000000000	NOT FOR CONSTRUCTION	
PROJECT CONTACT WEBSITE	10000000000000000000	NOT FOR CONSTRUCTION	







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

One of the aims of the plan is:

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

The subject application has been reviewed by Council's Natural Resource Management Unit who has indicated that insufficient information has been provided to enable determination that the development is unlikely to have a significant impact on threatened species, populations or ecological communities.

As such, it is considered that the applicant has not demonstrated that the proposed development sustains economic development of the area without compromising the area's environmental qualities.

Clause 5 - Ecologically Sustainable Development

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

In the application of the precautionary principle, public and private decisions should be guided by careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment. In this instance Council's Natural Resource Management Unit has raised concern with regard to the potential for the development to impact upon two threatened species as listed under the Threatened Species Conservation Act 1995. These concerns have not been addressed adequately by the applicant and as such it is recommended by Council's Natural Resource Management Unit that the application as it stands be refused.

In light of this, the proposed development is not considered to be in accordance with the provisions of this Clause.

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.*

Although consistent with the relevant 2(a) zone objectives (Subdivision is permissible in the 2(a) zone with a minimum allotment size of 450m²), there are concerns regarding the proposed development having regard to (b) and (c) above. The submitted information does not demonstrate that the proposal will not have an unacceptable cumulative impact on the community or locality as outlined elsewhere in this report.

Therefore, in accordance with this clause, it is considered that consent should not be granted for this proposal as submitted.

Clause 11 - Zone objectives

The subject site is located within the 2(a) Low Density Residential zone. The primary objective of this zone is 'to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.'

Secondary objectives of this zone are:

To allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective.

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

It is considered that the subdivision proposal, which would facilitate the low density development of the site as per the 450m² minimum site size is in accordance with the zone objectives.

Clause 15 - Essential Services

The objectives of this Clause are to ensure that development does not occur without adequate measures to protect the environment and the community's health and to ensure that development occurs in a coordinated and efficient manner.

This Clause goes on to further state that Consent must not be granted to the carrying out of development on any land unless:

- (a) A water supply and facilities for the removal or disposal of sewage and drainage are available for that land, or

- (b) Arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities.

The subject application has been reviewed by Council's Development Engineer who has indicated that the proposal does not provide adequate drainage services for the proposed development. As such, this Development Application is not considered to be in accordance with this Clause of the TLEP 2000.

Clause 17 - Social Impact Assessment

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

Clause 19 – Subdivision (General)

This clause allows subdivision to take place on the subject land with development consent.

Clause 35 - Acid Sulfate Soils

The subject site demonstrates Class 5 Acid Sulfate Soils in accordance with this Clause. The application was reviewed by Council's Environmental Health Section who has indicated that the proposal is acceptable in this regard.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 43: Residential development

Clause 43 of the North Coast Regional Environmental Plan (NCREP) states that Council shall not grant consent to the development for residential purposes unless:

- (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land;
- (b) it is satisfied that the proposed road widths are not excessive for the function of the road;
- (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met;
- (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles; and
- (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

The proposed development is considered to be generally in accordance with the above provisions, however it is not possible to determine that council are satisfied that the density of the (future) dwellings have been maximised without adversely affecting the environmental features of the land, given that insufficient ecological information has been provided in this regard.

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

The Draft Tweed Shire Local Environmental Plan applies to this site. The draft zone is R2: Low Density Residential. The proposed subdivision is ancillary development to the established residential use on the site and is permitted with consent as 'Multi dwelling housing'. The proposal is therefore not in contravention of the Draft LEP.

Clause 4.1 of the Draft LEP 2010 relates to minimum subdivision lot sizes and refers to the Lot Size Map. This map identifies the same minimum lot sizes as the current LEP. R2 land currently zoned 2(a) is identified as Lot Size code G, which requires 450m². The proposal is generally acceptable when assessed against the Draft LEP.

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

Tweed Development Control Plan

A5-Subdivision Manual

Tweed Development Control Plan A5 -Subdivision Manual aims to:

- Present Council's strategic plan objectives for the development of subdivisions.
- Achieve the highest quality and 'best practice' of subdivision development in the Shire
- Implement the policies and provisions of the NSW State Government in terms of seeking to achieve quality of subdivision planning and development.
- Provide guidelines and development standards for the development of subdivisions.

The subject application has been referred to Council's Development Engineer who has reviewed the subject application against the provisions of DCP A5. Whilst many of the criteria under this DCP are considered to be complied with or to a level that could be satisfactorily resolved through provision of appropriate conditions of development consent, there are concerns with the proposed development regarding stormwater management and geotechnical stability.

A5.4.5 Environmental Constraints

Section A5.4.5 Environmental Constraints contains provisions for land with risk of land slip or subsidence. This section states that:

Development sites must be assessed to determine if they are at risk from landslip or subsidence:

- originating either on or off the development site; or
- from an existing risk or a risk that will result from proposed subdivision works; or

- elements at potential risk include proposed lots, roads, open space and public infrastructure.

Councils Engineer has noted that whilst a Broadscale Geotechnical Investigation has been submitted as part of the subject application, this report states that *'the geotechnical investigations did not include an assessment of the stability of the site or individual sites. Based on the site walk over it is recommended that following earthworks plans a stability assessment be carried out by a geotechnical engineer'*.

Through public notification, concerns were raised that subsurface drainage, which was previously been identified as a contributing factor to instability had not been addressed by the Development Application.

The applicant has not addressed the above criteria to the satisfaction of Council's Development Engineer and declined to provide further geotechnical assessment. Therefore this issue is considered to warrant a recommendation of refusal for the Development Application as stability issues should be appropriately addressed prior to development approval.

A5.4.7 Stormwater Runoff, Drainage, Waterways and Flooding

Under this section stormwater runoff and drainage must only be discharged from a subdivision at a "lawful point of discharge". This must be on or immediately adjacent to the development site and may be:

- a natural watercourse or waterway to which the development site naturally drains;
- a "lawful point of discharge" agreed to by Council (i.e. an existing constructed public drain).

At present stormwater drainage from the site is conveyed via a piped drainage network traversing through the existing allotment and neighbouring Lot 1 DP 626198 and Lot 87 DP 253421. There is currently no easement over the piped infrastructure traversing through Lot 87 DP 253421.

The proposed development will result in a change to the stormwater discharged from the site. The Applicant has not provided appropriate assessment to determine if the existing drainage network has adequate capacity to convey the required piped and overland stormwater adequately. Furthermore it has not been demonstrated that an easement can be obtained through neighbouring lots to convey stormwater, secure the integrity of the stormwater infrastructure and establish legal points of discharge for the development.

As such, it is considered that the proposal does not discharge to a natural watercourse or waterway to which the development site naturally drains or a "lawful point of discharge" agreed to by Council.

This DCP goes on to state that where no acceptable point of discharge presently exists, the subdivider must:

- acquire and dedicate to Council connecting reserves or easements that provide legal continuity from the development site to an offsite legal point of discharge in a natural watercourse or waterway or suitable (appropriate location, size/capacity) public drain;
- construct the necessary connecting drainage works.

The applicant has indicated that attempts to negotiate with surrounding landowners in order to acquire easements has been unsuccessful and as such has requested Council to acquire the required easements. This has thus far not been supported by Council. The proposal is considered to be in contravention of A5.4.5 of this DCP and as such is not supported by Council officer.

The proposed development does not satisfy the criteria set out in Section 5.4 of Development Control Plan A5 - Subdivision Manual and as such it is not considered in the appropriate planning or in accordance with sustainable development for the area to approve this application.

(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

No demolition is proposed as part of this application.

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

Tweed Shire Coastline Management Plan 2005

The subject site is not located within an area that is affected by the Tweed Shire Coastline Management Plan 2005.

Tweed Coast Estuaries Management Plan 2004

The proposed development is not within Cudgen, Cudgera or Mooball Creeks. This Plan is therefore not applicable to the application.

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

As the subject site is not located within the Cobaki or Terranorra Broadwater (within the Tweed Estuary), this Plan is not considered relevant 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

Flora and Fauna

This application was referred to Council's Natural Resource Management Unit having regard to the vegetation removal associated with the proposal. Numerous regenerating rainforest species were recorded and include Red Kamala (*Mallotus philippensis*), Guioa (*Guioa semiglauca*), Umbrella Cheese Tree (*Clochidion sumatranum*) and Foambark (*Jagera pseudorhus*). Several trees considered suitable habitat or food source for Koalas were also recorded including Tallowwood (*Eucalyptus microcorys*), Brushbox (*Lophostemon confertus*), Pink Bloodwood (*Corymbia intermedia*) and Northern Grey Ironbark (*Eucalyptus siderophloia*).

Furthermore, two (2) threatened flora species were recorded, as listed below.

Species	Scientific Name	No. present on site
Coolamon, Durobby	<i>Syzygium moorei</i>	2
Fine-leaved Tuckeroo	<i>Lepiderema pulchella</i>	1

Comments received have raised concern with regard to the potential for the development to impact upon two (2) threatened species as listed under the Threatened Species Conservation Act 1995. Two (2) of the three (3) recorded threatened flora species would be significantly impacted upon by the proposed subdivision works, likely resulting in the demise of these trees. A mature Coolamon (*Syzygium moorei*) located within proposed Lot 2 would be affected by driveway construction works and a mature Fine-leaved Tuckeroo (*Lepiderema pulchella*) is located in an easement adjacent to proposed Lot 4 within which sewer and drainage pipes are proposed.

A request for further information to enable proper assessment of the application from an ecological perspective was requested of the applicant on 16 September 2011.

A Flora and Fauna Assessment has been submitted by the applicant. The Report advises that a vegetation survey was undertaken on site on 28 January 2011 at which two (2) threatened flora species (i.e S. moorei and L. pulchella) were recorded. The vegetation identified on site was not representative of any listed Endangered Ecological Communities. The Report concluded that the proposed development will have little impact on either the occurrence of quality native vegetation or fauna habitat.

The information on file from the applicant is not considered to adequately address the ecological concerns raised. In absence of any further information from the applicant Council's Natural Resource Management Unit has recommended that the application as it stands should be refused as insufficient information has been provided to enable determination that the proposal is unlikely to have a significant impact on threatened species, populations or ecological communities in accordance with Section 5A of the Environmental Planning and Assessment Act 1979. Consultation between Councils Engineer and Natural Resource Management Unit indicate that the proposed engineering works are likely to impact on the recorded threatened species both directly and indirectly.

(c) Suitability of the site for the development

Topography

The topography on the site is undulating, with ground levels varying from 40m AHD at the highest point to 20m AHD at the lowest. Furthermore, the site is surrounded by low density residential development, with the exception of approximately 30m road frontage to Byangum Road and 25m frontage to Tombonda Road.

As a result, the development potential of the site is restricted as any change to existing geotechnical levels or stormwater drainage will have an impact on the surrounding properties. In this instance, the applicant has not demonstrated to Council officers that the subject development will not have an unacceptable impact on the surrounding areas with respect to the abovementioned issues and as such, this Development Application is not supported.

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

The subject application was notified for a period of fourteen (14) days from Wednesday 22 June 2011 to Wednesday 6 July 2011. During this time three (3) submissions were received with respect to the proposal. Please see a detailed synopsis of the submissions below:

Submission No. 1: Owner of 13 Tombonda Road (Lot 88 DP253421)

This submission states that the above property currently receives stormwater run-off from the subject development site and in this regard requests protective measures from the proposal regarding stormwater.

The submission also states that proposed Lot 8 was subject to land slip previously and raises concerns that the removal of vegetation will result in further geotechnical stability issues.

There is an existing shed is on the submitter's site boundary. It is stated that removal of this shed will pose a geotechnical threat to her property as the site slopes steeply at this location.

Finally the submission queries what is to happen to an underground fuel and storage tank adjacent to the shed, if it is to be removed and if it holds any contaminants.

Applicants Response

The applicant has provided a response stating that water run-off will continue to be discharged via the existing drainage lines through an adjacent lot.

It is further stated that the applicant has provided a geotechnical report which identifies potential impact mitigation measures. It is indicated that these measures would be formalised through the 'Construction Certificate' application.

The existing shed is not to be removed as part of this application. The applicant refers to a site contamination assessment submitted as part of the application in relation to the removal of the underground fuel tank which indicates that remediation is not required. Further details with respect to this are to accompany the 'Construction Certificate' application.

Council Response

Councils Development Engineer has indicated that the applicant has not adequately addressed concerns raised in this objection regarding how the proposed development will manage stormwater drainage in the vicinity of Lot 88 & 87 DP 253412. This is considered to warrant a recommendation of refusal for this Development Application as this issue/concerns should be appropriately addressed prior to development approval.

Submission No. 2: Owner of 9 Tombonda Road (Lot 86 DP253421)

This submission provides some general information relating to the development history in the area and some geotechnical stability issues affecting the above property. Three grounds of objection to the proposed development have been provided. These are:

Stormwater

The objector has concerns that the proposed development works will impact upon the volumes of stormwater which currently flow through his land and has concerns regarding the legal status, capacity and maintenance of this drainage system.

Subsurface drainage

The objector is concerned that subsurface drainage, which has previously been identified as a contributing factor to instability has not been addressed by the Development Application.

Excess fill

The objection states that the surcharge of fill on the slope above the objectors' property exacerbates the problems.

Applicants Response

The applicant has provided a response stating that water run-off will continue to be discharged via the existing drainage lines through an adjacent lot.

It is further stated that the applicant has provided a geotechnical report which does not identify significant instability issues.

Council Response

Councils Development Engineer has indicated that the applicant has not adequately addressed concerns raised in this objection regarding stability. The applicant was requested to provide further information in this regard but has not done so. This issue is considered to warrant a recommendation of refusal for this Development Application as stability issues should be appropriately addressed prior to development approval.

Submission No. 3: Owners of 180 Byangum Road (Lot 1 DP626198)

This submission raises objections to the proposed development, in particular proposed Lot 6 & 8.

Lot 6 - It is stated that a 900mm side setback would impose a restriction to the pedestrian access of the objectors' property.

Lot 8 - It is requested that any building situated on this lot is situated as far from the objectors lot as possible and be limited to a single storey development. It is noted that the objectors are concerned that their solar hot water system be impacted by future development in this area.

It is noted generally that anecdotal evidence suggests that these lots may not be suitable for housing due to large amounts of sawdust and woodchips dumped as fill on these areas.

Applicants Response

The applicant has indicated that a 900mm future dwelling setback is the minimum required under current standards. Furthermore, it is asserted that the objectors enjoy no lawful pedestrian access over the subject development site to their property.

With respect to a future dwelling on proposed Lot 8, it is stated that any dwelling will be required to comply with DCP A1 with respect to siting.

The applicant has indicated that the Geotechnical report does not identify sawdust issues as raised in the submission.

Council Response

The issues raised in this submission are considered to be adequately addressed.

(e) Public interest

The issues considered in the assessment of the proposal are considered valid and contribute to the reasons for refusal. Having regard to potential impacts on surrounding properties and the natural environment in the area which have not been adequately addressed or resolved in the subject application, it is considered that this Development Application does not constitute the proper or sustainable

planning or development of this area. Therefore it is in the public interest for this application to be refused.

OPTIONS:

1. Refuse the application for the reasons provided; or
2. Council initiate proceedings to investigate the feasibility of acquiring the required easements from the relevant surrounding properties on behalf of the applicant in order to facilitate this development application.

CONCLUSION:

The application as submitted does not adequately address a number of issues raised by Councils Engineering and Natural Resource Management officers in addition to concerns raised by members of the public.

Sufficient information has not been submitted to determine that the stormwater drainage, geotechnical or ecological issues can be resolved in a way that is acceptable at this location. This is reflected in the proposal's non compliance with the statutory framework applicable to the development application.

Having undertaken an assessment against the relevant statutory controls the proposed eight (8) lot subdivision development would contravene the provisions of the Tweed Local Environmental Plan 2000, the North Coast Regional Environmental Plan 1988 and Tweed Shire Council's Development Control Plan A5-Subdivision Manual. The proposed development is therefore recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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- 13 [PR-CM] Development Application DA10/0704 for a 35 Lot Subdivision (32 Industrial Lots) at Lot 2 DP1139059 No. 10 Lundberg Drive, Lot 1 DP232745 No. 92 Wardrop Valley Road, Lot 17 DP712954 Quarry Road, Lot 2 DP1156966 and Lot 228 DP1122768 & Lot 10 DP1071301 Wardrop Valley Road, South Murwillumbah

SUBMITTED BY: Development Assessment

FILE NUMBER: DA10/0704 Pt1



Civic Leadership

SUMMARY OF REPORT:

Tweed Shire Council is the property owner and applicant for this development application. Council development consent is sought for a 35 lot subdivision, consisting of 32 industrial lots, one (1) drainage reserve lot (proposed Lot 13) and two (2) residue lots being the existing Garbage Depot (proposed Lot 34) and the 7(l) Environmental Protection (Habitat) zoned land (proposed Lot 35). The application also proposes the opening of new roads including a road connecting Quarry Road and Lundberg Drive and the provision of underground drainage, water supply, sewerage, power and telephone services.

Staging is proposed as follows:

- Stage 1 – Lots 1 to 6, 13 and 18 to 22.
- Stage 2 – Lots 7 to 12 and 14 to 17.
- Stage 3 – Lots 23 to 35.

The land to which all of the proposed industrial lots are located is zoned 4(a) Industrial. Currently existing Lot 2 in DP 1139059, consists of three zones; 7(l) Environmental Protection (Habitat), 5(a) Garbage Depot and 4(a) Industrial. The application seeks to subdivide Lot 2 in DP 1139059 into three lots consistent with the zone boundaries. As such, proposed Lot 35 will consist of land zoned 7(l); proposed Lot 34 will consist of land zoned 5(a); with the remaining 4(a) Industrial land forming part of the proposed industrial subdivision. The development requires improvement to existing surrounding drainage on the following existing lots; Lot 228 in DP 1122768 zoned 1(b2) Agricultural Protection, Lot 17 in DP 712854 zoned 5(a) Special Uses (Aerodrome), Lot 2 in DP 1139059 zoned 5(a) Special Uses Garbage Depot. The proposed drainage works are permissible with consent in the zones.

An objection pursuant to State Environmental Planning Policy No.1 (SEPP 1) is submitted pursuant to clause 20(2)(a) *Subdivision in zones 1(a), 1(b), 7(a), 7(d) and 7(l)* of the Tweed Local Environmental Plan 2000 as the minimum lot size of 40 hectares is not achieved for land zoned 7(l) Environmental Protection (Habitat) (proposed Lot 35). Proposed Lot 35 will contain all of the 7(l) Environmental Protection (Habitat) land with a total land area of 9.042 hectares. The NSW Department of Planning and Infrastructure granted concurrence to vary

the subdivision development standard, on 25 March 2011. Accordingly, the application is to be determined by Council, due to the SEPP 1 Objection.

The proposal is permissible with consent.

RECOMMENDATION:

That Development Application DA10/0704 for a 35 Lot Subdivision (32 Industrial Lots) at Lot 2 DP 1139059 No. 10 Lundberg Drive, Lot 1 DP 232745 No. 92 Wardrop Valley Road, Lot 17 DP 712954 Quarry Road, Lot 2 DP 1156966 and Lot 228 DP 1122768 & Lot 10 DP 1071301 Wardrop Valley Road, South Murwillumbah be approved subject to the following conditions:

GENERAL

1. Staging

The development may be constructed in three separate parts as follows:

Stage 1- Lots 1 to 6, 13 and 18 to 22

All necessary clearing, bulk earthworks and overland flow drainage systems in accordance with the approved drawings.

Construction of the following roads, including underground drainage, water supply, sewerage, power, telephone services and Federal Government's National Broadband Network (NBN) initiatives (pit and conduit network):

- Road One
- Quarry Road (CH 00 to CH 80)

The development shall be completed in accordance with drawing number SK4, Issue D, dated 28/03/12 by Cozens Regan Williams Prove Pty Ltd.

Temporary turnaround areas are to be provided to the ends of all roads to be extended into the next stage. The turnaround areas are to be constructed in accordance with Development Control Plan Section A5 – Subdivision Manual and Councils adopted Development Design and Construction Specifications. The temporary turnaround areas shall be detailed on the Construction Certificate application.

External Works

Improve the hydraulic efficiency of the existing central cane drain, western cane drain and southern cane drain (between the union drain and western drain) as depicted on drawing number SK13 Issue A by Cozens Regan Williams Prove and dated 7/09/10. The works are to be detailed as part of the Construction Certificate application and owners consent is to be provided for the proposed works.

Stage 2 – Lots 7 to 12 and 14 to 17

All necessary clearing, bulk earthworks and overland flow drainage systems in accordance with the approved drawings.

Construction of the following roads, including underground drainage, water supply, sewerage, power, telephone services and Federal Government's National Broadband Network (NBN) initiatives (pit and conduit network):

- Quarry Road (CH 80 to CH 340)
- Road Two (CH 00 to CH 80)

The development shall be completed in accordance with drawing number SK4, Issue D, dated 28/03/12 by Cozens Regan Williams Prove Pty Ltd.

Temporary turnaround areas are to be provided to the ends of all roads to be extended into the next stage. The turnaround areas are to be constructed in accordance with Development Control Plan Section A5 – Subdivision Manual and Councils adopted Development Design and Construction Specifications. The temporary turnaround areas shall be detailed on the Construction Certificate application.

External Works

Improve the hydraulic efficiency of the existing central cane drain, western cane drain and southern cane drain as depicted on drawing number SK13 Issue A by Cozens Regan Williams Prove and dated 7/09/10. The works are to be detailed as part of the Construction Certificate application and owners consent is to be provided for the proposed works.

Stage 3 – Lots 23 to 35

All necessary clearing, bulk earthworks and overland flow drainage systems in accordance with the approved drawings.

Construction of the following roads, including underground drainage, water supply, sewerage, power, telephone services and Federal Government's National Broadband Network (NBN) initiatives (pit and conduit network):

- Quarry Road (CH 340 to END)
- Road Two (CH 80 to END)
- Lundberg Drive Widening (CH 00 to END)

The development shall be completed in accordance with drawing number SK4, Issue D, dated 28/03/12 by Cozens Regan Williams Prove Pty Ltd.

Temporary turnaround areas are to be provided to the ends of all roads to be extended into the next stage. The turnaround areas are to be constructed in accordance with Development Control Plan Section A5 – Subdivision Manual and Councils adopted Development Design and Construction Specifications. The temporary turnaround areas shall be detailed on the Construction Certificate application.

External Works

Improve the hydraulic efficiency of the existing central cane drain, western cane drain and southern cane drain as depicted on drawing number SK13 Issue A by Cozens Regan Williams Prove and dated 7/09/10. The works are to be detailed as part of the Construction Certificate application and owners consent is to be provided for the proposed works.

[GENNS01]

2. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2587-14 prepared by Chapman Surveys and dated 16/02/12, and plan Nos SK4, SK9, SK10, SK11, prepared by Cozens Regan Williams Prove and dated 28/03/12 and 29/03/12 except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0045]

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

[GEN0125]

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. 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 this shall be detailed within the Construction Certificate application for approval of such works.

[GEN0155]

7. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Preliminary Geotechnical Assessment, dated 28 September 2010, except where varied by the conditions of this consent.

The above preliminary geotechnical assessment is limited in scope due to extensive earthworks involving cuts of up to 18 metres in areas. Additional geotechnical investigations as specified in the report are required prior to works commencing on site.

All individual sites are subject to further geotechnical testing at time of building approval.

[GENNS02]

8. Stormwater management shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Williams Prove Pty Ltd dated 20 February 2012, except where varied by the conditions of this consent.

[GENNS03]

9. Removal of vegetation from land zoned 7(l) Environmental Protection (Habitat) is prohibited, unless separate approval is granted by Council's General Manager or delegate.

[GENNS04]

10. The Office of Environment & Heritage requires that the proponent needs to ensure that transitional arrangements are in place to ensure compliance with the design and operational standards of *Managing Urban Stormwater: Soils and Construction: Volume 1*, and that the quarries are to be adequately

decommissioned and rehabilitated prior to construction of the subdivision commencing.

[GENNS05]

11. The Mineral and Resources Division, Industry and Investment NSW requires that the development follows, or occurs in parallel with, the later stages of and does not restrict, approved quarrying in any part of the subject land.

[GENNS05]

12. Pursuant to Section 88B of the Conveyancing Act, the existing easement for services on the southern portion of existing Lot 2 DP 1156966 benefiting Tweed Shire Council be preserved in the new subdivision layout.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

13. Proposed Lot 13 shall be suitably embellished at no cost to Council including the detention basin, retaining walls, grassing, landscaping, safety barriers / fencing and access.

[PCC0235]

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

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

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

[PCC0275]

15. 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]

16. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17^o (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This Plan shall accompany the Construction Certificate application.

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

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers

which require minimal maintenance. Undergrowth should be weed suppressant.

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

[PCC0455]

17. All earthworks shall 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.

Catch drains shall be provided on the top side of all retaining walls in accordance with Council's Development Design Specification D6 – Site Regrading.

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

[PCC0485]

18. 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]

19. 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]

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

Road Works

- (a) Construction of an urban bitumen sealed road formation with upright kerb & gutter to a 13m sealed pavement width classified as Access Street (Industrial), within a 20m wide road reserve as per Councils road works standard. A minimum of 3.5m wide nature strip shall be provided on each side for all internal roads.
- (b) A concrete footpath of 1.2 metres wide and 100 millimetres thick on compacted road base is to be constructed along the frontage of all lots including the full length of all internal roads in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.
- (c) Road widening of Lundberg Drive to an urban bitumen sealed road formation with upright kerb and gutter. The widening is to match the existing road formation south of the site and continue for the full site

frontage. Tapering to the existing road formation north of the site is to occur beyond the site frontage.

Stormwater

- (a) Additional survey and calculations shall be carried out in the Construction Certificate application phase to determine if any additional detention is required.
- (b) The detailed design of the stormwater detention basin/s shall be submitted with the Construction Certificate application. Specific Requirements to be detailed within the Construction Certificate application for the detention basins include:
 - Size of all detention basins including benching, profiles of batters and extents.
 - Location of all detention basins.
 - All safety measures such as safety barriers/safety fencing.
 - All calculations to be provided, demonstrating appropriately sized detentions basins.
 - Provide a compliant sealed access road to any constructed detention basin, such that a two-wheel drive vehicle is able to drive up to the detention basin for maintenance purposes. A turn around area is to be provided at the end of the access road.

Pressure Sewer

- All common rising mains shall be located in the road reserve. The location of connection of the rising main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the length of rising main so as to reduce any potential odour and septicity issues.
- Common sewer rising main to be accepted as Council infrastructure with each lot to have a private pressure pump station.
- The pump stations are to be designed within a small compound that includes the control box and concrete slab.
- A boundary assembly shall be provided for each lot which is no more than 1m from the point on the boundary where the main from the pump station crosses into the road reserve.
- The pump stations and rising main are to be designed in accordance with Council's design and construction specifications and the WSA 07 Pressure Sewer Code of Australia.

Intersections

Construction of an intersection layout of Lundberg Drive / Quarry Road in accordance with AUSTROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance.

Kerb and Gutter including any pavement widening, line marking and signage in Lundberg Drive shall be provided for the full length of the industrial property frontage.

Electricity

All electrical supply works (sub-stations, switching stations, cabling etc) to be included on the Construction Certificate drawings.

[PCC0875]

21. 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]

22. 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]

23. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared 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 may incorporate water sensitive design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed within the Construction certificate application include:

- 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.
- Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted for approval prior to issue of a Construction Certificate.
- Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

24. 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]

25. 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]

26. 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.

Where Council is requested to issue a construction certificate for civil works associated with this 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.

[PCC1195]

27. Prior to the issue of a construction certificate the applicant is required to engage a suitably qualified consultant to prepare an Acid Sulfate Soil Assessment and Management Plan to the satisfaction of Council's General Manager or delegate.

[PCCNS01]

28. Prior to the issue of a construction certificate the applicant is required to engage a suitably qualified consultant to prepare a Construction Noise Management Plan to the satisfaction of Council's General Manager or delegate. The management plan shall include but not be limited to the following;

- Assessment of potential noise impacts.
- Proposed noise mitigation measures.
- Restriction in construction hours.
- Maintenance of equipment.
- Complaint management.

[PCCNS01]

29. Prior to the issue of a construction certificate the applicant is required to engage a suitably qualified consultant to prepare a Dust Management Plan to the satisfaction of Council's General Manager or delegate.

[PCCNS01]

30. Where private sewage ejection pump stations are proposed, and prior to the issue of a sub-division certificate, the applicant is required to lodge an application to install an onsite sewerage management system, pay the appropriate fee and be issued with an approval to install under Section 68 of the Local Government Act 1993.

[PCCNS01]

31. Prior to the issue of a construction certificate, the construction certificate application shall include engineering calculations and design plans for all stormwater detention systems and upgrade works for downstream open drains. These details must demonstrate that the contributing industrial catchment, at ultimate development, will not cause unacceptable adverse flooding of downstream land.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

32. 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]

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

[PCW0015]

34. 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]

35. 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]

36. Any 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]

37. Prior to start of works, the Principal Certifying Authority 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, as well as on all endorsed retaining walls and structures designed over Council's sewer main. The certificate must address any loads or possible loads on the wall from structures adjacent to the wall, as well as confirm that any proposed piers or foundations are located outside the zone of influence of the sewer main.

The certificate must be supported by Geotechnical assessment of the founding material and be endorsed by Council's Community and Natural Resources Division.

[PCW0745]

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

- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) the consent authority, or

- (ii) an accredited certifier, and
- (b) the person having the benefit of the development consent:
- (c) has appointed a principal certifying authority,
- (d) has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

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

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

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

[PCW0815]

39. The proponent shall provide to the Principal Certifying Authority 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]

40. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

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

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

[PCW0985]

DURING CONSTRUCTION

- 41. 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]

- 42. 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]

- 43. 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]

- 44. 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]

- 45. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.**

[DUR0745]

- 46. During filling operations,**

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

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

and upon completion,

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

[DUR0755]

47. 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 earthworks comply with AS3798 and that the development is suitable for its intended use shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

49. 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]

50. 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.

[DUR0995]

51. 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]

52. A concrete footpath of 1.2 metres wide and 100 millimetres thick is to be constructed along the frontage of all lots including the full length of all internal roads 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]

53. 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]

54. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered National Association of Testing Authorities (NATA) Consultant shall be submitted to Council for approval and demonstrating:

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

[DUR1805]

55. During the relevant stages of road construction, tests shall be undertaken by a Registered National Association of Testing Authorities (NATA) Geotechnical firm. A report including copies of test results shall be submitted to the Principal Certifying Authority prior to the placement of the wearing surface demonstrating:

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

[DUR1825]

56. Provision of temporary turning areas and associated signage for refuse vehicles at the end of roads which will be extended in subsequent stages. The temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.

[DUR1835]

57. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

58. 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]

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

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

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

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

The 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".

[DUR1895]

60. All retaining walls in excess of 1.2 metres in height or retaining walls and structures that are approved to be constructed over Council's sewer main, must be certified by a Qualified Structural Engineer verifying the structural integrity of the structures after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

[DUR1955]

61. 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]

62. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design and Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

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

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

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

[DUR2035]

64. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

65. Drainage Reserve

- (a) The proposed drainage reserve is to be dedicated to Council at no cost.
(b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgment of Application for Subdivision Certificate (form 13) to allow the land to be classified.

[DUR2295]

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

[DUR2355]

67. 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]

68. During construction, a "satisfactory inspection report" is required to be issued by Council for all Section 68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

69. No earthworks or soil removal is to occur inside the 'edge of rubbish' line on Council's location of landfill map (ref: Tweed Shire Council Design unit: location of landfill drawing WK11011) except with prior written approval of Council.

[DURNS01]

70. Prior to the commencement of any road construction, pavement design details, including reports from a Registered National Association of Testing Authorities (NATA) Consultant shall be submitted to Council for approval. The pavement shall comply with Councils Development Design and Construction Specifications.

[DURNS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

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

Stage 1

Water DSP2: 10 ET @ \$11571 per ET \$115,710

Sewer Murwillumbah: 10 ET @ \$5560 per ET \$55,600

Stage 2

Water DSP2: 10 ET @ \$11571 per ET \$115,710

Sewer Murwillumbah: 10 ET @ \$5560 per ET \$55,600

Stage 3

Water DSP2: 10 ET @ \$11571 per ET \$115,710

Sewer Murwillumbah: 10 ET @ \$5560 per ET \$55,600

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]

73. Section 94 Contributions

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

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

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

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

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

Stage 1

(a) Tweed Road Contribution Plan:

65 Trips @ \$1807 per Trips \$117,455

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

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

2.166884 ET @ \$1772.82 per ET \$3,841.50

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

S94 Plan No. 18

Stage 2

- (a) Tweed Road Contribution Plan:
65 Trips @ \$1807 per Trips \$117,455
(\$1807 base rate + \$0 indexation)
S94 Plan No. 4
Sector10_4
- (b) Extensions to Council Administration Offices
& Technical Support Facilities
2.166884 ET @ \$1772.82 per ET \$3,841.50
(\$1759.9 base rate + \$12.92 indexation)
S94 Plan No. 18

Stage 3

- (a) Tweed Road Contribution Plan:
65 Trips @ \$1807 per Trips \$117,455
(\$1807 base rate + \$0 indexation)
S94 Plan No. 4
Sector10_4
- (b) Extensions to Council Administration Offices
& Technical Support Facilities
2.166884 ET @ \$1772.82 per ET \$3,841.50
(\$1759.9 base rate + \$12.92 indexation)
S94 Plan No. 18

[PCC0215/PSC0175]

74. Section 94 Contributions

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

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

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

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

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

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

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

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

[PSC0215]

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

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

[PSC0225]

77. A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 12 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 12 months establishment period will be refunded.

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

[PSC0235]

78. Pursuant to the provisions of S94 Plan proposed lot 13 shall be dedicated as passive open space at no cost to Council including any embellishment specified.

[PSC0245]

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

The submission shall include copies of all undertaken test results.

[PSC0395]

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

[PSC0725]

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

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

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

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

[PSC0735]

82. 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 subdivision 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) An easement for support is to be created over the footprint of the above retaining wall(s) or batters, benefiting the higher lot. The terms of this easement shall include:

- The owner of the lot burdened shall not interfere with the retaining wall or, batter or the support it offers or use it in a way which may detract from the stability or support provided and
 - The owner of the lot benefited, may at any time the stability of the retaining wall is threatened, enter upon the easement and any carry out repairs required to restore the stability and support provided. And
- (b) A restriction on use is to be created on the lower lot title adjacent to the retaining wall footprint, restricting excavation (greater than 0.3m in vertical height) within the area burdened by the restriction. The width of the area and excavation restrictions within the area shall be determined by the retaining wall designer and shall be no less than the height of the wall, and
- (c) A restriction on use is to be created on the higher lot adjacent to the retaining wall footprint, restricting placement of structures or filling (greater than 0.3m in vertical height) within the area burdened. The restrictions shall be determined by the wall designer, with a width no less than the height of the wall.
- (d) 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.

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

[PSC0825]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) A Restriction As to User for a 10m wide buffer and vegetation corridor on all lots adjacent to the cane fields (Lot 228 on DP 1122768) as depicted on reference drawing number 2587-10 by Chapman Surveys Ptd Ltd dated 15/12/10.
- (c) A Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.

The Positive Covenant (as applicable) to be created over all new dwelling allotments.

- (d) A Restriction As To User requiring that all roofwater from buildings or structures shall be discharged to an approved infiltration pit or permanent drainage located on the subject property. The infiltration pit or permanent drainage shall be approved by the Principal Certifying Authority.

- (e) Extinguishment of superfluous Right of Carriageways that were previously created to provide temporary turning areas for refuse vehicles and the general public, but are now no longer required.
- (f) Prior to the issue of a Subdivision Certificate, a 6m wide easement is to be provided for access and stormwater drainage over Lot 22 from Road No. 1 to Lot 13.
- (g) Lot 13 to be dedicated as a Drainage Reserve.
- (h) The land located within Lundberg Drive/Wardrop Valley, adjacent (east) to Lot 1 DP1139059 is to be dedicated as Road Reserve.

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.

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

[PSC0855]

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

The following information must accompany an application:

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

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

[PSC0885]

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

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate - Water Reticulation

(c) Compliance Certificate - Sewerage Reticulation

(d) Compliance Certificate - Drainage

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.**
- 2. The 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".**

[PSC0915]

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

[PSC0925]

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

[PSC0945]

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

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

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

[PSC1065]

91. Prior to the release of the subdivision certificate the proponent shall:

- Dedicate the proposed drainage reserve at no cost to Council.**
- Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.**

[PSC1075]

92. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation (including household connections) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

Fire Hydrants spacing, sizing and pressures shall comply with Council's DCP – Section A5 – Subdivision Manual, associated Development Design and Construction Specifications and AS2419.1-2005.

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

[PSC1115]

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

[PSC1165]

94. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity has been provided adjacent to the front boundary of each allotment; and**
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.**

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

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

[PSC1185]

- 95. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all Section 68h2 permanent stormwater quality control devices.**

[PSCNS01]

- 96. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.**

[PSCNS02]

- 97. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the subdivision is required to provide a pit and conduit network to allow for the installation of fibre to the home (FTTH) broadband services.**

[PSCNS03]

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

[PSCNS04]

REPORT:

Applicant: Tweed Shire Council

Owner: Tweed Shire Council

Location: Lot 2 DP 1139059 No. 10 Lundberg Drive, Lot 1 DP 232745 No. 92 Wardrop Valley Road, Lot 17 DP 712954 Quarry Road, Lot 228 DP 1122768 & Lot 10 DP 1071301 Wardrop Valley Road, South Murwillumbah

Zoning: 4(a) Industrial, 5(a) Garbage Depot, 7(l) Environmental Protection (Habitat), 5(a) Aerodrome, 6(a) Open Space, 1(a) Rural, 1(b2) Agricultural Protection

Cost: Nil

BACKGROUND:

The original subdivision application proposed 38 lots, consisting of 35 industrial lots, one (1) drainage reserve lot (proposed Lot 13) and two (2) residue lots being the existing Garbage Depot (proposed Lot 37) and the land zoned 7(l) Environmental Protection (Habitat) (proposed Lot 38). The applicant proposed a modification to the site plan to reduce the number of lots from 38 to 35 lots. The purpose of the reduction was to eliminate the need for removal of contaminated soil from the previously proposed lots 25 and 26, which infringed on Council's landfill site. The amended application also consolidated proposed Lots 27, 28 and 29 into two (2) lots.

The current plan of subdivision seeks Council consent for a 35 lot subdivision, consisting of 32 industrial lots, one (1) drainage reserve lot (proposed Lot 13) and two (2) residue lots being the existing Garbage Depot (proposed Lot 34) and the land zoned 7(l) Environmental Protection (Habitat) (proposed Lot 35). The application also proposes the opening of new roads including a road connecting Quarry Road and Lundberg Drive and the provision of underground drainage, water supply, sewerage, power and telephone services.

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

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

The proposed industrial subdivision is consistent with the aims of the plan, with the development retaining Tweed Shire's unique natural and built environments and economic and social fabric.

Clause 5 - Ecologically Sustainable Development

The proposed development is consistent with the four principles of ecological sustainable development by:

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

Clause 8 - Zone objectives

The objectives of the 4(a) Industrial zone are as follows:

"Primary Objectives

*To provide land primarily for industrial purposes.
To facilitate economic activity and employment generation."*

The proposed development, being a subdivision for industrial purposes, is permissible with consent, in the 4(a) Industrial zone.

The proposed development is consistent with the primary objectives of this zone as it will provide land/lots for an industrial purpose.

The objectives of the 5(a) Special Use zone are as follows:

"Primary Objective

to identify land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things."

Proposed Lot 34 is zoned 5(a) Garbage Depot, with the existing landuse (Garbage Depot) remaining unchanged. As such, the proposal is consistent with the zone objectives.

The objectives of the 7(l) zone are as follows:

“Primary objectives

- *to protect areas or features which have been identified as being of particular habitat significance.*
- *to preserve the diversity of habitats for flora and fauna.*
- *to protect and enhance land that acts as a wildlife corridor.”*

Proposed Lot 35 is zoned 7(l) Environmental Protection (Habitat), with the existing habitat area remaining unchanged. As such, the proposal is consistent with the zone objectives.

Clause 15 - Essential Services

Clause 15 of the TLEP 2000 requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Council's Development Engineer assessed the application and recommended appropriate conditions which have been placed on the development consent. Appropriate conditions are recommended to ensure compliance with Council's standards.

Clause 16 - Height of Building

N/A, as the development is for subdivision only.

Clause 17 - Social Impact Assessment

Clause 17 of the TLEP 2000 relates to social impact assessment, with the objective *“to ensure proper consideration of development that may have a significant social or economic impact”*.

Clause A13.5.1 *Proposals which Require a Statement to be Prepared*, Section A13 *Social and Economic Assessment* of Council's Development Control Plan 2008, does not require a Socio-Economic Impact Assessment for an industrial subdivision. The proposal is considered not to create a significant social or economic impact.

Clause 35 - Acid Sulfate Soils

Council's Environmental Health Officer assessed the proposal and recommended suitable conditions, which are to be placed on the consent.

Other Specific Clauses

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

Clause 20(2)(a) requires that the minimum lot size in the 7(l) zone is to be 40 hectares. Proposed Lot 35 has an area of 9.042 hectares and therefore does not comply with the 40 hectare development standard. The existing Lot 2 in DP

1139059 has an area of 14.84ha and due to the split zoning with the area of 7(l) zoned land being 9.042 hectares, well below 40 hectares, the standard cannot be complied with. An objection under State Environmental Planning Policy No. 1 to clause 20(2)(a) of the Tweed Local Environmental Plan 2000 and the 40 hectare development standard is addressed within this report. The application was referred to the NSW Department of Planning and Infrastructure for concurrence. The NSW Department of Planning and Infrastructure granted concurrence in this instance as *“all the land zoned 7(l) on the property will remain in a single lot...as is presently the case”*.

Clause 28 – Development in Zones 7(l) Environmental Protection (Habitat) and On Adjacent Land

No clearing or development is proposed within the 7(l) zoned land. Piping of the existing gully within land zoned 5(a) is proposed in a location adjacent to land zoned 7(l). The pipeline is within a gully which has been highly disturbed by garbage depot operations and accordingly no impacts on flora and fauna in the locality are anticipated.

The application was referred to the Department of Environment, Climate Change and Water and the Department of Industries and Investment NSW, with both departments not objecting to the proposal.

Clause 39 – Remediation of Contaminated Land

Council's Environmental Health Officer, advised that the current modified proposal (deletion of two lots previously within Council's Garbage/landfill site) does not incorporate contaminated land.

Council's Environmental Health Officer provided the following comments:

“The applicant has proposed a modification to the site plan to reduce the number of lots from 38 to 35 lots. The purpose of the reduction is to eliminate the need for removal of contaminated soil from the previously proposed lots 25 and 26 which infringed the 'edge of rubbish' at Council's landfill site.

The amended site plans appear to satisfy the need for site remediation but should be conditioned to ensure that the boundaries of the new allotments 24, 25 and 26 do not infringe the 'edge of rubbish' line on Council's location of landfill map.”

Clause 39A – Bushfire Protection

This clause requires the consent authority to take into account a number of matters when considering a Development Application in respect of bushfire prone land. The major hazards are located to the north of the site comprising the vegetated area owned by Tweed Shire Council (proposed Lot 35 zoned 7(l) Environmental Protection (Habitat)) and a small patch of vegetation on and adjacent to the southern boundary of the site, the majority of which will be removed as part of the proposed development (proposed Lots 27 – 30).

The proposed northerly lots are generally buffered from the actual hazard by the existing garbage depot site which is largely cleared of vegetation. The size of the allotments is such that proposed buildings can be set back from the rear boundaries (with the rear area used for parking, maneuvering, etc.) and in addition reticulated water supply will be provided within the proposed streets. The streets will comply with the requirements of Planning for Bushfire Protection in terms of width and gradient to accommodate fire fighting vehicles.

The proposal is considered consistent with the clause.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

The proposal is located adjacent to agricultural land zoned 1(a) Rural and 1(b2) Agricultural Protection. The development proposes industrial allotments on industrial zoned land only, with improvements to existing drainage areas required. The proposal is considered not to cause a loss of prime crop or pasture land and is not likely to significantly impact on the use of adjoining or adjacent agricultural land.

Clause 15 – Impacts on Rivers, Streams and Wetlands

The proposed lots are well buffered from existing significant water courses and wetlands (minimum 535 metres). Appropriate conditions relating to construction phase and operational phase water quality control measures will be incorporated into the development consent which will ensure that water quality and habitat values in downstream water bodies are not degraded.

Clause 47 Principles for Commercial and Industrial Development

The site has been zoned for industrial purposes for many years (since 1988) and is an extension of the existing Murwillumbah industrial area. The proposal is considered consistent with the provisions of this clause.

Clause 81: Development adjacent to the ocean or a waterway

This clause requires Council to consider development that is located on land within 100 metres of the ocean or any substantial waterway. The development site is located at least 535 metres from Condong Creek.

SEPP No. 1 - Development Standards

Clause 20 of the Tweed Local Environmental Plan 2000 states:

“Subdivision in Zones 1 (a), 1 (b), 7 (a), 7 (d) and 7 (l)

(1) Objectives

- *to prevent the potential for fragmentation of ownership of rural land that would:*
 - (i) *adversely affect the continuance or aggregation of sustainable agricultural units, or*
 - (ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.*
 - *to protect the ecological or scenic values of the land.*
 - *to protect the area of Tweed's water supply quality.*
- (2) *Consent may only be granted to the subdivision of land:*
- (a) *within zone 1 (a), 1 (b2), 7 (a), 7 (d) or 7 (l) if the area of each allotment created is at least 40 hectares, or*
 - (b) *within zone 1 (b1) if the area of each allotment created is at least 10 hectares.*
- (3) *Despite subclause (2), consent may be granted to the subdivision of land where an allotment to be created is less than 40 hectares, or 10 hectares in the case of zone 1 (b1), if the consent authority is satisfied that the allotment will be used for a purpose, other than for an agricultural or residential purpose, for which consent could be granted.*
- (4) *For the purposes of subclauses (2) and (3):*
- (a) *land is taken to be within zone 1 (b1) if it is shown on the zone map by the marking "1(b1)", and*
 - (b) *land is taken to be in zone 1 (b2) if it is shown on the zone map by the marking "1(b2)".*

Clause 20(2)(a) provides that the minimum lot size in the 7(l) zone is 40 hectares. Proposed Lot 35 has an area of 9.042 hectares and therefore does not comply with the 40 hectare development standard. The size of the existing lot (Lot 2 DP 1139059) is 14.84 hectares and due to the split zoning of Lot 2 (the approximate area of the 7(l) zoned land being 9.042 hectares) proposed Lot 35 (which contains all of the 7(l) zoned land) is well below 40 hectares, the standard cannot be complied with. The application was referred to the NSW Department of Planning and Infrastructure for concurrence. Concurrence is required because the development standard is proposed to be varied by more than 10%. The NSW Department of Planning and Infrastructure granted concurrence in this instance as *"all the land zoned 7(l) on the property will remain in a single lot...as is presently the case"*.

The proposal is considered consistent with the underlying purpose of the standard and the broader planning objectives of the locality by protecting the ecological values of the land and containing the land zoned 7(l) Environmental Protection (Habitat) within a single allotment.

SEPP No. 44 - Koala Habitat Protection

The site is not identified under Tree Preservation Order 2011 – Koala Habitat Study Area. In addition, an Ecological Assessment submitted by the applicant contains a Koala Habitat Assessment and concludes that the site does not comprise core Koala habitat and therefore a Koala Management Plan is not required.

The Ecological Assessment also concludes that a Species Impact Assessment is not required and a Commonwealth assessment of the proposal is not required.

SEPP No. 55 - Remediation of Land

Council's Environmental Health Unit assessed the application and advised that due to the amended plan (*ref: Chapman Surveys plans 2587-13 and 2587-14 dated 16 February 2012*) deleting the two lots located within the 5(a) Garbage Depot site (Lots 25 and 26), eliminates the need for removal of contaminated soil from the previously proposed Lots 25 and 26, which infringed the 'edge of rubbish' at Council's landfill site. Appropriate conditions are recommended to ensure that no earth works or soil removal are to occur on contaminated lands.

Council's Environmental Health Officer stated:

"The amended site plans (ref: Chapman Surveys plans 2587-13 and 2587-14 dated 16 February 2012) appear to satisfy the need for site remediation but should be conditioned to ensure that the boundaries of the new allotments 24, 25 and 26 do not infringe the 'edge of rubbish' line on Council's location of landfill map."

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

Draft Tweed Local Environmental Plan 2010

Under the provisions of the Draft Plan, the part of the site currently zoned 4(a) Industrial is proposed to be zoned IN1 General Industrial. The minimum lot size in the IN1 zone is 2000m² and all proposed lots comply with this requirement. The proposed industrial lots are consistent with the Draft Plan.

The part of the site currently zoned 5(a) Garbage Depot is proposed to be zoned IN1 General Industrial. The development does not propose any industrial allotments within this area.

The part of the site north of the garbage depot, which is currently zoned 7(l), is proposed to be zoned part RU2 Rural Landscape and part E2 Environmental Conservation. The development does not propose any industrial allotments within this area.

The adjoining sugar cane land to the south and west is generally proposed to be zoned RU2 Rural Landscape and RU1 Primary Production. The development does not propose any industrial allotments within this area.

The proposed development is consistent with the provisions of the exhibited Draft Plan.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The development complies with Council's site access and parking code.

Council's Development Engineer stated "*Existing constraints already exist at the intersection of Quarry Road and Tweed Valley Way in terms of intersection capacity. As this intersection is not included as an item in the Works Program under the Tweed Road Contribution Plan. It was agreed by the Director of Engineering and Operations at a meeting on 24 August 2010, to amend the Tweed Road Contribution Plan to include an appropriate item to facilitate equitable upgrading of the intersection to meet the demands generated by this development proposal and other future developments proposed within the catchment.*

The internal roads are proposed to be 13m wide and have a 20m wide road reserve which is typical to Tweed Shire Councils Standard for industrial access streets. The grades proposed for the subdivision are flat as indicated on the long sections.

All sites, when completed, will have access from the proposed internal roads. A separate Development Application will be required for the building construction, access driveways and parking, which will be assessed in relation to the proposed specific building type/use."

A3-Development of Flood Liable Land

The development complies with Council's flooding policy.

The Design Flood Level for this area ranges from RL 4.1m AHD adjacent to Lundberg Drive to RL 5.5m AHD towards the Quarry Road part of the site.

The finished surface levels of the proposed allotments range between (approximately) RL 8m AHD to RL 20m AHD. Accordingly, the subject site is not flood affected.

A5-Subdivision Manual

The proposal is generally consistent with the Council's policies and standards.

The proposal was assessed by Council's Development/Subdivision Engineers, with Council's Engineers recommending approval subject to recommended conditions.

Bulk Earthworks and Landforming

The bulk earthworks proposed/required for this development will be undertaken in accordance with the existing quarrying approvals over the sites. Excess material gained from the quarrying operation is currently being taken off site. Following completion of quarrying operations on the site, it is anticipated that only relatively minor earthworks will be required to establish road and lot gradients and final landforms. The Environmental Impact Statement (Jigger Pty Ltd Quarry Consent 96/123) identifies "finished landform ranging from RL 12m AHD (at Quarry Road) to RL 15m AHD at the common boundary of the Council quarry". The earthworks and landforming required post completion of extractive operations to achieve the finished landform required by this application, will be minimal and will not exceed 20% over 8m as per Council's DCP A5 limitations.

A11-Public Notification of Development Proposals

The application was not notified or advertised.

A13-Socio-Economic Impact Assessment

Clause A13.5.1 *Proposals which Require a Statement to be Prepared*, Section A13 *Social and Economic Assessment* of Council's Development Control Plan 2008, does not require a Socio-Economic Impact Assessment for an industrial subdivision. The proposal is considered not to create a significant socio-economic impact.

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

Clause 92(a) Government Coastal Policy

The site is not covered by the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*.

This clause is not applicable to the proposal.

Clause 92(b) Applications for demolition

The application does not propose demolition of a building.

This clause is not applicable to the proposal.

Clause 93 Fire Safety Considerations

This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.

This clause is not applicable to the proposal.

Clause 94 Buildings to be upgraded

This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building.

This clause is not applicable to the proposal.

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

N/A.

Tweed Shire Coastline Management Plan 2005

N/A.

Tweed Coast Estuaries Management Plan 2004

N/A.

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

N/A.

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

The development is compatible with the existing surrounding landuses, comprising; industrial land, Council Garbage Depot and agricultural land. The portion of the subject sites land that is zoned 4(a) Industrial, is the only part of the site to be development for industrial purposes.

The development is considered to create acceptable environmental impacts on the natural and built environments and acceptable social and economic impacts in the locality.

Flora and Fauna

No clearing or development is proposed within the 7(l) Environmental Protection (Habitat) zone. Piping of the existing gully within land zoned 5(a) is proposed in a location adjacent to land zoned 7(l). The pipeline is within a gully which has been highly disturbed by garbage depot operations and accordingly no impacts on flora and fauna in the locality are anticipated.

Noise

The subject sites are located adjacent to land zoned 4(a) Industrial, 5(a) Garbage Depot, 1(a) Rural and 7(l) Environmental Protection. Rural residential dwellings are located approximately 150m to the east of the site on land zoned 1(a) Rural and approximately 350m to the west on land zoned 4(a) Industrial. Noise impacts upon existing residential dwellings are anticipated to have some impacts from

proposed construction works. The applicant is required to prepare a Construction Noise Management Plan prior to issue of a construction certificate to minimise potential noise impacts on adjacent residential dwellings.

Note: Operational noise from individual industrial lots will be addressed with any future development applications for first use. Traffic noise is not anticipated to generated noise significantly above what is currently experienced in the area.

Dust

The proposal has the potential to generate dust during construction works. The applicant is required to prepare a dust management plan prior to issue of a construction certificate.

Lawful Point of Discharge

The site is currently divided into a number of catchments, each draining to open channels and watercourses. Those draining westward discharge to the Blacks Swamp Drainage Union cane drains, which in turn discharge to Condong Creek. Those draining eastward discharge to "natural" watercourses through bushland, which flow through a 900mm culvert under Lundberg Drive to an open drain and Condong Creek.

The applicant has provided the written concurrence of the Drainage Union for the "discharge of stormwater from the proposed industrial subdivision into existing cane drains".

The application therefore satisfies the requirements for lawful points of stormwater discharge, in accordance with DCP-A5.

Stormwater Quantity

The downstream receiving drains to the west have limited capacity, and excessive flows will inundate agricultural land and sugar cane crops. While this already occurs and is generally acceptable in major storm events, measures are required to ensure that the development and the associated increased runoff rates will not result in more frequent inundation and increased duration of flooding to the detriment of downstream landholders.

The application proposes to upgrade adjoining cane drains as part of the subdivision civil works to provide additional flow capacity. The Blacks Swamp Drainage Union has provided written concurrence to undertake "desilting, reshaping and minor widening of existing cane drains together with upgrading of culverts and flood control structures".

The application also proposes to provide a stormwater detention basin on proposed catchment "CC" (Drawing No. SK2) to mitigate peak flows into these cane drains. No calculations have been provided supporting these proposed measures, but in principle such measures would seem necessary. The development should be conditioned to provide engineering detail with the construction certificate application.

No mitigation measures are proposed on the larger proposed catchment "DD" (Drawing No. SK2) discharging to the east. The engineering report assumes that there is adequate storage in downstream watercourses and bushland, with the 900mm culvert under Lundberg Drive providing a discharge control. There is no justification for this approach however there is little engineering risk in this assumption.

Stormwater Quality

Being a "small subdivision" under Development Design Specification D7 - Stormwater Quality (less than 50 lots), constructed wetlands are not required, and the applicant relies on the installation of proprietary treatment devices in the road drainage systems to meet "deemed to comply" standards.

Two Humeceptors (or similar) are proposed on the two major catchments (CC and DD), sized according to the contributing road areas. Subsequent industrial development will be required to provide treatment of hardstand runoff prior to discharging to the public system.

The stormwater quality system appears adequate, subject to detailed design with the Section 68/Construction Certificate application.

Sediment & Erosion Control/Stormwater

The site is already largely disturbed and exposed, being previously used for quarry and landfill activities. It is expected that there are already measures in place to control runoff from these areas, and these will be expanded and embellished for the subject subdivision works. Standard consent conditions are recommended to address Erosion and Sediment Control with the construction certificate application.

OSSM - Private Pump stations

The proposed development may require sewage ejection pumps to be installed on some or all of the allotments (discussed with Council's OSSM officer Grant Malcolmson). Therefore the installation and operation of these devices (private sewage ejection pump stations) will require Council approval under section 68 of the Local Government Act. An appropriate condition is recommended.

Note: An approval to operate an onsite sewage management system will be required for owners or tenants of individual lots at the time that the lots are developed for commercial use.

(c) Suitability of the site for the development

The site which contains the proposed industrial allotments is zoned 4(a) Industrial, with compatible landuses and zoned land surrounding the site. The site is considered suitable for the proposal.

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

NSW Department of Planning and Infrastructure

The application was referred to the NSW Department of Planning and Infrastructure for concurrence, to vary the subdivision development standard within clause 20(2)(a) of the Tweed Local Environmental Plan 2000. The NSW Department of Planning and Infrastructure granted concurrence in this instance as *“all the land zoned 7(l) on the property will remain in a single lot...as is presently the case”*.

Department of Environment, Climate Change and Water

The application was referred to the Department of Environment, Climate Change and Water. The department did not object to the proposal.

Department of Industries and Investment NSW

The application was referred to the Department of Industries and Investment NSW. The department did not object to the proposal.

(e) Public interest

The proposal is considered not to negate the public interest.

OPTIONS:

1. Approves the application subject to the recommended conditions; or
2. Refuses the application and provide reasons for refusal.

CONCLUSION:

The proposal is permissible with consent and considered to create acceptable impacts on the natural and built environments and acceptable social and economic impacts in the locality, with the site considered suitable for the proposal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

14 [PR-CM] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0356 Pt2



Civic Leadership

SUMMARY OF REPORT:

This matter has most recently been called up for Council determination by Councillor Holdom.

The main Council actions prior to this request were:

- Council Meeting - 21 February 2012: A report was submitted on DA11/0356, with an officers' recommendation for refusal. Council resolved at this meeting to refuse the application in accordance with the officer's recommendation. A Notice of Rescission was subsequently lodged in respect of the above resolution, and accepted by Council;
- Council Meeting - 20 March 2012: A rescission motion in respect of Council's previous determination was subsequently endorsed by Council. A new motion was also endorsed by Council:

"That this item be deferred until a meeting takes place with the applicant and relevant Tweed Shire Council Officers to ascertain a designated area within the Tweed that does not significantly impact on the environment and that any consent would require a possible trial period of operation".

- 26 March 2012: Senior Council officers met with representatives of the Tweed Byron Local Aboriginal Land Council (TBLALC) and the Tweed Aboriginal Advisory Committee to discuss concerns raised in respect of DA11/0356. Based on information presented at this meeting, the Council officers provided a view to the Councillors that the applicant should be required to undertake more detailed Aboriginal cultural heritage and environmental investigations in order to justify the possible impacts on the environs of this part of the Tweed River. Council has since received correspondence from the TBLALC reinforcing their objection to the proposal; and
- 12 April 2012: A meeting was held between Tweed Councillors, Council staff and the applicant of DA11/0356. Following this meeting, the application was requested to be reported to the May Council meeting by Councillor Polglase.

This request was withdrawn to enable a second meeting to be held between Tweed Councillors, Council staff and the applicant on 8 May 2012.

Given that there were no agreed outcomes arising from the two meetings with the applicant, and no further assessment of the proposal undertaken by the applicant, the Council officers therefore reiterate the previous recommendation for refusal of the current development application.

RECOMMENDATION:

That Development Application DA11/0356 for a wakeboarding coaching clinic between Fingal and Chinderah along the Tweed River (operating from Fingal boat ramp) at Lot 403 DP 755740 Main Road, Fingal Head be refused for the following reasons:

- 1. Pursuant to Section 5 Objects of the Environmental Planning and Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(i), the orderly and economic use and development of the land.**

It is Council's view that the proposal has the ability to impact negatively upon adjacent land; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning and Assessment Act 1979.

- 2. Pursuant to Section 5 Objects of the Environmental Planning and Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(vi), the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.**

It is Council's view that the proposal has the ability to impact upon the protection and conservation of native animals and plants; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning and Assessment Act 1979.

- 3. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.**

It is Council's view that the proposed development is inconsistent with the aims of:

State Environmental Planning Policies (SEPP):

- SEPP 14: Coastal Wetlands;**
- SEPP 26: Littoral Rainforests;**
- SEPP 64: Advertising and Signage (Clauses 10 and 27);**
- SEPP 71: Coastal Protection (Clause 8(a), (d), (g), (h), (i) and (p)(i)); and**
- North Coast Regional Environmental Plan (NCREP): Clauses 15, 32B, 75, 76 and 81.**

It is Council's view that the proposed development does not satisfy the provisions contained within:

The Tweed Local Environmental Plan (LEP) 2000:

- **Clause 4: Aims of this plan;**
 - **Clause 5: Ecologically sustainable development;**
 - **Clause 8(1): Consent Considerations;**
 - **Clause 11: Zoning;**
 - **Clause 13: Development of uncoloured land on the zone map;**
 - **Clause 25: Development in zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land;**
 - **Clause 29: Development adjacent to zone 8(a) National Parks and Nature Reserves; and**
 - **Clause 31: Development adjoining waterbodies.**
4. **The proposal is inconsistent with management plans produced by Council and the Roads and Maritime Services that highlight the need to protect ecology and reduce erosion within the vicinity of the Tweed River.**
5. **Pursuant to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.**

It is Council's view that use of unzoned land adjacent to environmental conservation areas of State significance for the purposes of a wakeboarding coaching clinic is considered unacceptable due to its impact upon the habitat of estuarine fauna, in particular that of migratory shorebirds.

6. **In accordance with Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.**

It is Council's view that it is in the broader general public interest to enforce the standards contained within the Tweed LEP 2000 specifically as it relates to the objectives of unzoned land and the 6(a) Open Space, 6(b) Recreation, 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic/Escarpment), 8(a) National Parks and Nature Reserves and 2(a) Low Density Residential zones.

REPORT

Summary of Key Council Actions

This matter has most recently been called up for Council determination by Councillor Holdom.

The main Council actions prior to this request were:

- Council Meeting - 21 February 2012: A report was submitted on DA11/0356, with an officers' recommendation for refusal. Council resolved at this meeting to refuse the application in accordance with the officer's recommendation. A Notice of Rescission was subsequently lodged in respect of the above resolution, and accepted by Council;
- Council Meeting - 20 March 2012: A rescission motion in respect of Council's previous determination was subsequently endorsed by Council. A new motion was also endorsed by Council:

"That this item be deferred until a meeting takes place with the applicant and relevant Tweed Shire Council Officers to ascertain a designated area within the Tweed that does not significantly impact on the environment and that any consent would require a possible trial period of operation".

- 26 March 2012: Senior Council officers met with representatives of the Tweed Byron Local Aboriginal Land Council (TBLALC) and the Tweed Aboriginal Advisory Committee to discuss concerns raised in respect of DA11/0356. Based on information presented at this meeting, the Council officers provided a view to the Councillors that the applicant should be required to undertake more detailed Aboriginal cultural heritage and environmental investigations in order to justify the possible impacts on the environs of this part of the Tweed River. Council has since received correspondence from the TBLALC reinforcing their objection to the proposal;
- 12 April 2012: A meeting was held between Tweed Councillors, Council staff and the applicant of DA11/0356. Following this meeting, the application was requested to be reported to the May Council meeting by Councillor Polglase. This request was withdrawn to enable a second meeting to be held between Tweed Councillors, Council staff and the applicant on 8 May 2012.

Other Concurrent Actions

- A study examining the contribution of boat wake on Tweed River bank erosion was put on display for public comment from 20 March 2012 for a period of 28 days. The study will inform the draft Tweed River Bank Erosion Management Plan (referenced in the previous Council report) which is scheduled for exhibition in late 2012; and
- Council has received a number of submissions regarding the rescinded refusal of the proposal from the Tweed Byron Local Aboriginal Land Council (TBLALC), outlining an objection to DA11/0356 based on 'serious environmental and cultural

concerns'. A copy of the most recent correspondence received from the TBLALC (dated 8 June 2012) is provided as an attachment to this report.

Summary of Meetings with the Applicant

A meeting was held between Councillors, Council staff and the applicant of DA11/0356 on 12 April 2012, in response to Council's resolution of 20 March 2012. The primary purpose of the meeting was for Councillors to seek clarification of some of the proposal's key aspects.

The applicant submitted two main alternative route options at the meeting for the location of wakeboarding coaching activities on the Tweed River (below). The options referenced the (SMEC) study examining the contribution of boat wake on Tweed River bank erosion that was on exhibition:

Option A: Barney's Point Bridge - Cane Road (Condong Bridge); and

Option B: Cane Road (Condong Bridge) - 200m Upstream of Stotts Island

Council staff were requested to review the options and provide preliminary feedback to the applicant with regard to environmental impact of the alternative training routes.

Preliminary feedback from Council's officers was supplied to the applicant via email on 27 April 2012. Further advice provided on 1 May 2012 confirmed that should the applicant wish to proceed with an alternative section of the Tweed River for the coaching clinic proposal, a fresh development application would be required with preference for the withdrawal of the current development application.

A second meeting was held on 8 May 2012 at the applicant's request with the aim of discussing alternative river locations for the proposal but it did not result in a specific outcome.

CONCLUSION

Given that there were no agreed outcomes arising from the two meetings with the applicant, and no further assessment of the proposal undertaken by the applicant, the Council officers therefore reiterate the previous recommendation for refusal of the current development application.

OPTIONS:

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

Council officers recommend Option 1.

COUNCIL IMPLICATIONS:

a. Policy

Not Applicable.

b. Budget/Long Term Financial Plan

Not Applicable.

c. Legal

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

Council will incur costs as a result of legal action.

d. Communication/Engagement

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Council report from meeting held 21 February 2012 (ECM 51360615)
 - 2. Copy of correspondence from the Tweed Byron Local Aboriginal Land Council to Council dated 8 June 2012 (ECM 51841020)
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- 15 [PR-CM] Development Application DA11/0476.01 for an Amendment to Development Consent DA11/0476 for Demolition of Existing Structures, Construction of a McDonalds Restaurant and Drive-Thru, IGA Supermarket, 2 x Speciality Stores, Carparking and Associated Signage at Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658, Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0476 Pt4



Civic Leadership

SUMMARY OF REPORT:

Council is in receipt of a Section 96 application for proposed modifications to an approval for a McDonald's restaurant and drive-through, IGA Supermarket, two specialty stores, associated car parking and signage at South Murwillumbah.

There is no proposed change to the approved footprint of the development. Final design of the proposed buildings has been addressed under a separate deferred commencement assessment.

The applicant is seeking to modify the proposed development by way of amending or deleting various conditions of consent, particularly in relation to lighting, noise, landscaping and staging matters.

The application was advertised for a period of 14 days, during which time eight (8) submissions were received against the proposed modifications.

Having undertaken a thorough assessment against all relevant statutory requirements, the proposed development is recommended for conditional approval, noting that not all of the proposed modifications have been supported.

Those amendments not being supported by Council officers are:

- The modification of Condition 11 and Condition 112 in relation to lighting;
- The deletion of Condition 109 with regard to amenity of the locality; and
- The modification of Condition 110 and deletion of Condition 117 and Condition 118 with regard to noise.

Those amendments not being supported, but alternative modifications being proposed by Council are:

- The modification of Condition 13 in relation to reduced Section 94 developer contributions; and
- The modification of Condition 103 in relation to the consolidation of the site into one lot under one title.

Those amendments that are being supported (subject to minor changes) are:

- The deletion of Condition 3 (lighting);
- The deletion of Condition 12 (car parking design detail), or modification to improve clarity;
- The modification of Condition 15 in relation to reduced Section 64 water/sewer contributions; and
- The modification of Condition 23 with regard to the location of the proposed bus shelter from within the subject site within the road reserve/footpath.

RECOMMENDATION:

That Development Application DA11/0476.01 for an amendment to Development Consent DA11/0476 for demolition of existing structures, construction of a McDonalds restaurant and drive-thru, IGA supermarket, 2 x speciality stores, carparking and associated signage at Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658, Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah be approved and the consent be amended as follows:

1. Delete Condition No. 3.
2. Delete Condition No. 12 and replace it with Condition No. 12A which reads as follows:

12A. The developer shall provide a total of 82 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 – Site Access and Parking Code.

The required parking spaces relevant to each Stage of the development site are:

Stage 1 (McDonalds): 29 parking spaces, plus 9 shared parking spaces from Stage 2.

Stage 2 (IGA / specialty shops): 53 parking spaces plus 7 shared spaces from Stage 1.

Full design detail of the proposed parking and manoeuvring area 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 Certification.

3. Delete Condition No. 13 and replace it with Condition No. 13A which reads as follows:

13A. 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 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.

Stage 1 (McDonald's)

(a) Tweed Road Contribution Plan:

82.2 Trips @ \$1807 per Trips \$148,535

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

Stage 2 (IGA/Specialty Shops)

(a) Tweed Road Contribution Plan:

172.6 Trips @ \$1807 per Trips \$311,888

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

4. Delete Condition No. 14 and replace it with Condition No. 14A which reads as follows:

14A. 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

This is also applicable prior to the issue of any Section 68 sewer infrastructure construction approval.

5. Delete Condition No. 15 and replace it with Condition No. 15A which reads as follows:

15A. 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:

Stage 1 (McDonald's)

Water DSP2: 3.9651 ET @ \$11571 per ET \$45,880.20

Sewer Murwillumbah: 10.8248 ET @ \$5560 per ET \$60,185.90

Stage 2 (IGA/Specialty Shops)

Water DSP2: 0.7879 ET @ \$11571 per ET \$9,116.80

Sewer Murwillumbah: 1.9576 ET @ \$5560 per ET \$10,884.30

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

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.

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.

6. Delete Condition No. 17 and replace it with Condition No. 17A which reads as follows:

17A. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate that includes site filling OR Section 68 approval for construction of sewer main infrastructure, 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.

7. Delete Condition No. 19 and replace it with Condition No. 19A which reads as follows:

19A. 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 site filling to be undertaken in conjunction with the first stage of the development being constructed, unless required earlier in conjunction with sewer main construction.

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 Section 68 stormwater application for Council approval.

8. Delete Condition No. 23 and replace it with Condition No. 23A which reads as follows:

23A. 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. The matters covered by this condition are required to be completed in conjunction with the first stage of the development under construction. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property boundary, and the western (egress) driveway shall be 7.5m wide at the property boundary.
- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Section 138 application. At this time Council may consider the installation of 'No

Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.

(d) Construction of a bus shelter to Council's standards midway along the site's frontage.

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

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

9. Delete Condition No. 35 and replace it with Condition No. 35A which reads as follows:

35A. The applicant is **required** to submit an application for two (2) water connections for the site, to accord with the future subdivision proposal over the site.

10. Delete Condition No. 37 and replace it with Condition No. 37A which reads as follows:

37A. Prior to **a** Construction Certificate being issued **for either stage of the development**, a Site Management Plan for the ongoing use and management of **that stage, including measures for compatibility with the Site Management Plan for the other stage**, shall be prepared and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include but is not limited to the management of mechanical plant and associated equipment, management of the Playland area, proposed site security including management of patrons and antisocial behaviour, monitoring and management of litter, trolley management, coordination of refuse collection vehicles and delivery vehicles to avoid potential traffic conflict and general site management.

The approved Site Management Plan shall be kept onsite and implemented upon commencement of operations.

11. Delete Condition No. 38 and replace it with Condition No. 38A which reads as follows:

38A. Prior to the issue of a Construction Certificate a **Demolition Work Plan** is to be submitted and approved by Council's General Manager or his delegate, in relation to the existing building along the eastern boundary of the site.

12. The following new Prior to Issue of Construction Certificate (PCC) condition is to be ADDED as Condition 40.1:

40.1. Development consent for the 2 lot subdivision/amalgamation of the site is to be issued prior to the issue of any construction certificate for building works on the site. Specific requirements to facilitate the subdivision proposal are:

- a) ***Construction of an extension of Council's sewer main infrastructure is a requirement of the subdivision proposal. This work can only commence once bulk earthworks for the road frontage area of the site has been completed.***
 - b) ***The sewer main extension is to be laid prior to commencement of any building work on the site.***
 - c) ***Final testing and Closed Circuit Television (CCTV) inspection of the new infrastructure is ideally undertaken after all site and building works are completed, but if this is not achievable, then at the earliest - after completion of driveway ingress works.***
 - d) ***All bulk earthworks associated with the internal shared access arrangements (Right of Carriageway and Parking Easements) must be completed and the relevant shared access areas fully constructed prior to the issue of a Subdivision Certificate.***
13. The following new Prior to Issue of Construction Certificate (PCC) condition is to be ADDED as Condition 40.2:
- 40.2.A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.***
- The detailed plan must indicate the proposed location of each species within the proposed landscaped areas of the site.***
14. Delete Condition No. 46 and replace it with Condition No. 46A which reads as follows:
- 46A. 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 a construction certificate or Section 68 sewer infrastructure construction application.**
15. Delete Condition No. 62 and replace it with Condition No. 62A which reads as follows:
- 62A. Proposed earthworks shall be carried out in accordance with AS3798, "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 AS3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to:**
- a) **Tweed Shire Council in conjunction with sewer infrastructure construction works (that require site filling) as per separate Section 68 approval.**
 - b) **The Principal Certifying Authority upon completion.**
-

16. Delete Condition No. 77 and replace it with Condition No. 77A which reads as follows:

77A. During construction of the initial stage of the development, 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.

17. Delete Condition No. 103 and replace it with Condition No. 103A which reads as follows:

103A. The lots are to be consolidated and subdivided into two (2) lots.

The Subdivision Certificate is to be issued and proof of registration of the plan of subdivision provided to Council prior to the issue of any Occupation Certificate for the site.

REPORT:

Applicant: McDonalds Australia Limited
Owner: Tronridge Pty Ltd
Location: Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658, Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah
Zoning: 3(c) Commerce and Trade

BACKGROUND:

The subject site (involving 9 allotments) is described as Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658, Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah. The site is irregular in shape with a 32m frontage to Tweed Valley Way to the north.

Council granted deferred commencement consent on 21 February 2012 for a combined application involving a McDonald's restaurant, an IGA Supermarket and two (2) specialty stores.

The McDonald's component has a site area of 2787m², with the restaurant having a Gross Floor Area (GFA) of 431.2m². The restaurant incorporates the following:

- McCafe, Children's Playland and Party Room;
- Seating capacity for 88;
- 29 car spaces;
- Drive through facility;
- Loading dock; and
- Associated signage.

The IGA Supermarket/specialty stores component has a site area of 3464m², with the supermarket having a GFA of 1173.7m². The supermarket component includes the following:

- 915m² of retail floor area for the IGA Supermarket;
- Two (2) specialty stores, having a GFA of 128m²;
- Loading dock;
- 53 car spaces; and
- Associated signage.

The approved trading hours for the McDonald's operation and drive through are 24 hours, 7 days a week. The proposed trading hours for the IGA Supermarket are 5am – 10pm, 7 days a week.

Deferred commencement conditions were applied to the development with regard to amended plans in terms of: building design; signage; landscaping etc as well as a Contaminated Land Investigation Report. Assessment of the deferred commencement conditions is being undertaken concurrently (under delegation) with the assessment of this S96 application.

PROPOSED DEVELOPMENT:

There is no proposed change to the approved footprint of the development. Final design of the proposed buildings has been addressed under a separate deferred commencement assessment.

The proposed modifications to Development Consent submitted by the applicant DA11/0476 include:

- The deletion of **Condition 3** in relation to all signage being fitted with necessary devices capable of permitting the change in intensity of illumination of the sign;
- The modification of **Condition 11** (car parking floodlighting) to make reference to a submitted Lighting Plan;
- The deletion of **Condition 12** (car parking design detail), or modification to improve clarity;
- The modification of **Condition 13** in relation to reduced Section 94 developer contributions;
- The modification of **Condition 15** in relation to reduced Section 64 water/sewer contributions;
- The modification of **Condition 23** with regard to the location of the proposed bus shelter from within the subject site within the road reserve/footpath;
- The modification of **Condition 103** in relation to the consolidation of the site into one lot under one title;
- The deletion of **Condition 109** which relates to the use not causing disruption to the amenity of the locality;
- The modification of **Condition 110** (externally mounted air conditioning units and other mechanical plant) to make reference to a submitted Noise Impact Assessment;
- The modification of **Condition 112** (externally mounted artificial lighting) to make reference to a submitted Lighting Plan;
- The deletion of **Condition 117** which relates to air conditioning, refrigeration and exhaust fan units for the McDonald's restaurant;
- The deletion of **Condition 118** which relates to a 2.4m high acoustic barrier being constructed on the northern portion of the eastern boundary of the site; and
- An assessment of possible amendment to various other conditions in relation to the proposed staging of the development.

The applicant also proposes to stage the development in terms of the two main building components of the development (i.e. the McDonald's restaurant and the IGA component).

During the separate assessment of the landscaping deferred commencement conditions, Council staff raised the issue of plant species location. Whilst the submitted Landscaping Intent plans were satisfactory in demonstrating the increased area of landscaping along the site's frontage, there were no details of where each particular species will be located. Rather than holding up the deferred commencement process, Council staff suggested that the landscaping details be included as part of this Section 96 application. In summary, the applicant has now requested that detailed landscaping plans be lodged prior to the issue of a construction certificate.

Along with this application and deferred commencement conditions, the applicant submitted a Heritage Impact Statement for assessment (as required by Condition 38) in relation to the existing building on the subject site. The applicant has now included a proposed modification of Condition 38 as part of this application.

Additional modifications to the approval have been applied by Council officers as a direct result of the proposed staging of the development and the eventual subdivision of the site. These modifications incorporate amendment to the wording of some existing conditions and the inclusion of several new conditions in relation to: timing of works; staging; and the extension of Council's sewer main infrastructure.

With regard to the separate deferred commencement conditions, the following is a brief summary of the design changes proposed by the applicant, noting that it was Council's intent to achieve a more contemporary design, with improved passive efficiency design features with regard to the IGA design changes:

McDonald's Restaurant Building

- Significant amendments to the roof form from a flat parapet roof format to a pitching skillion roof which now incorporates deeper eave overhangs;
- Amended materials including eco tech horizontal cladding, hardwood timber detailing to screens, CFC sheeting and colourbond wall cladding and roof sheeting. The proposed colours combine a mix of greys, grey green and 'dune' offset by the timber detailing;
- A marginally larger outdoor terrace area has been provided to take advantage of a north facing outdoor dining area and a view north out and over the Tweed River; and
- Reduced height of the blade wall sign on the northern elevation to be no higher than the roof line and include timber horizontal battens on the face of the blade wall.
- In terms of Energy Efficiency, the applicant has noted that an Energy Efficiency Report is a mandatory requirement for Building Certification. The energy efficiency of the building is dependent upon such things as: building orientation; building materials; eaves overhang; type of glazing; air-conditioning; and lighting. These items will be addressed prior to the issue of a Construction Certificate.
- With regard to Water Efficiency, roof water will be collected into rainwater tanks (20,000 litres) and used for non-potable uses such as irrigation of landscaping, toilets etc. Run off from some of the car park will be directed to a small swale between the buildings, partially filtered by plants and infiltrate into groundwater. High flow stormwater will be taken to the stormwater detention basin via an inlet drain.

IGA/Specialty Shops Building

- Roof pitch reduced to 15 degrees, reducing the roof height by 1.55m;
- Fascia depth reduced / soffit height raised over shopfront area;
- Softened colour scheme;
- Encased the freestanding front columns in timber cladding;
- Extended the shopfront glazing to the northern elevation; and
- Incorporate 300mm high garden beds along the kerb line to raise planting along the northern elevation.

- The energy and water conservation measures proposed for the McDonald's operation also apply to the IGA and specialty shops, however the exact size of underground water tanks will be confirmed at the building documentation stage. Specific measures relating to the IGA building include: all refrigeration is to be enclosed with refrigeration lighting controlled through motion sensor activation; and energy efficient LED strip lighting is to be used where possible.

Signage

- Both of the 10m pylon signs have been replaced with 5m blade signs, which are 1.524m wide;
- The number of signs per premises have been reduced to comply with DCP A4; and
- The majority of the lifestyle images have been removed from the IGA building.

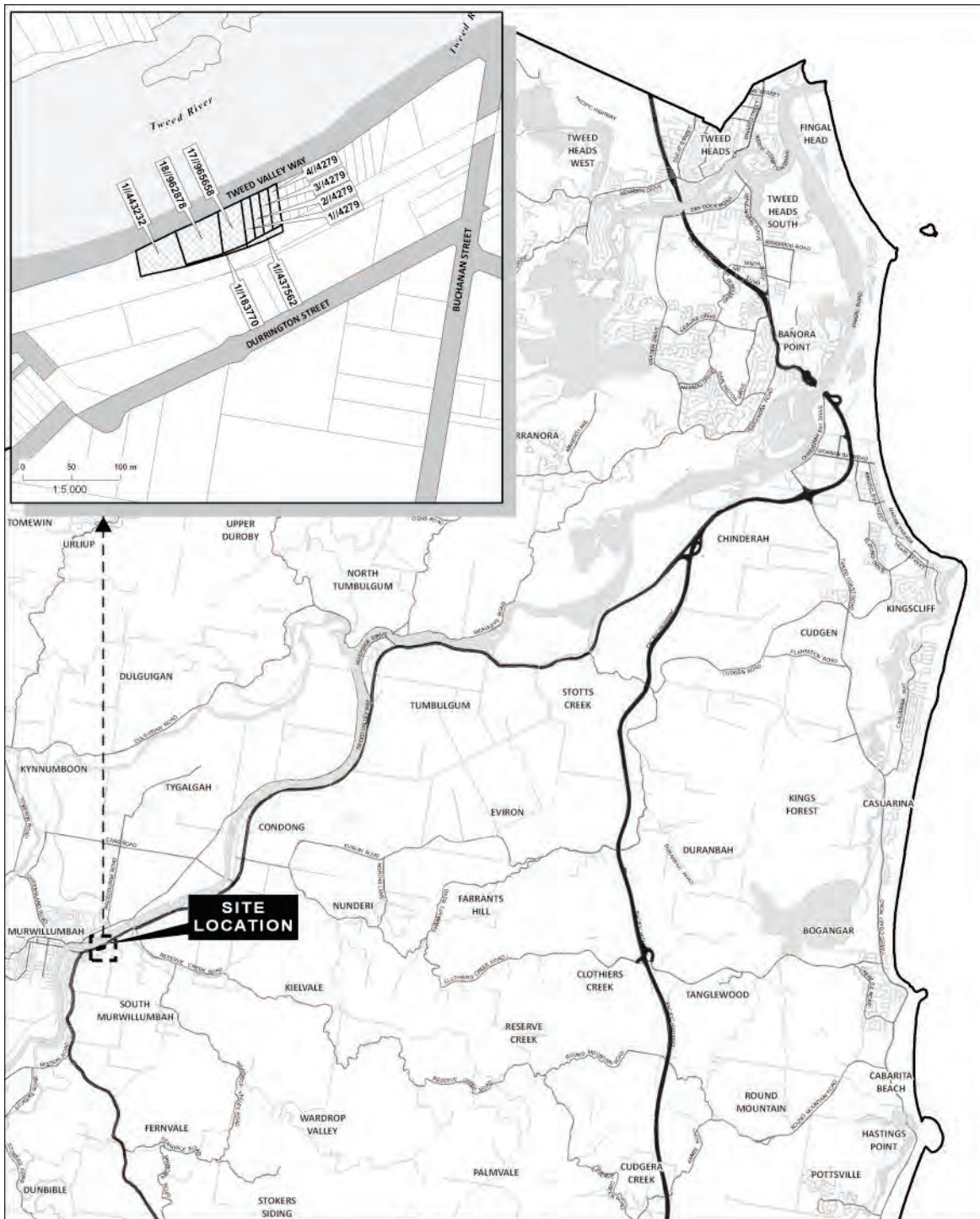
Landscaping

- Landscaping has been increased where possible along the frontage of the site (see comments above).

Contaminated Land

- The applicant has submitted a Contaminated Land Investigation Report, which has been accepted by Council's Environmental Health Unit.

SITE DIAGRAM:



Locality Plan

Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658 & Lot 18 DP 962878
 No. 230 Tweed Valley Way, South Murwillumbah

<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Call before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.</p>	<p>Cadastral 01 February, 2012 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p>	<p>0 1 2 Km 1:100,000 @ A4 Portrait BOUND SCALE COPY ONLY - NOT CERTIFIED Map From: Universal Transverse Mercator Horizontal Datum: Geoidetic, Datum of Australia 1984 Map: and of Approval, Code 50 GDA</p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484 T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>	
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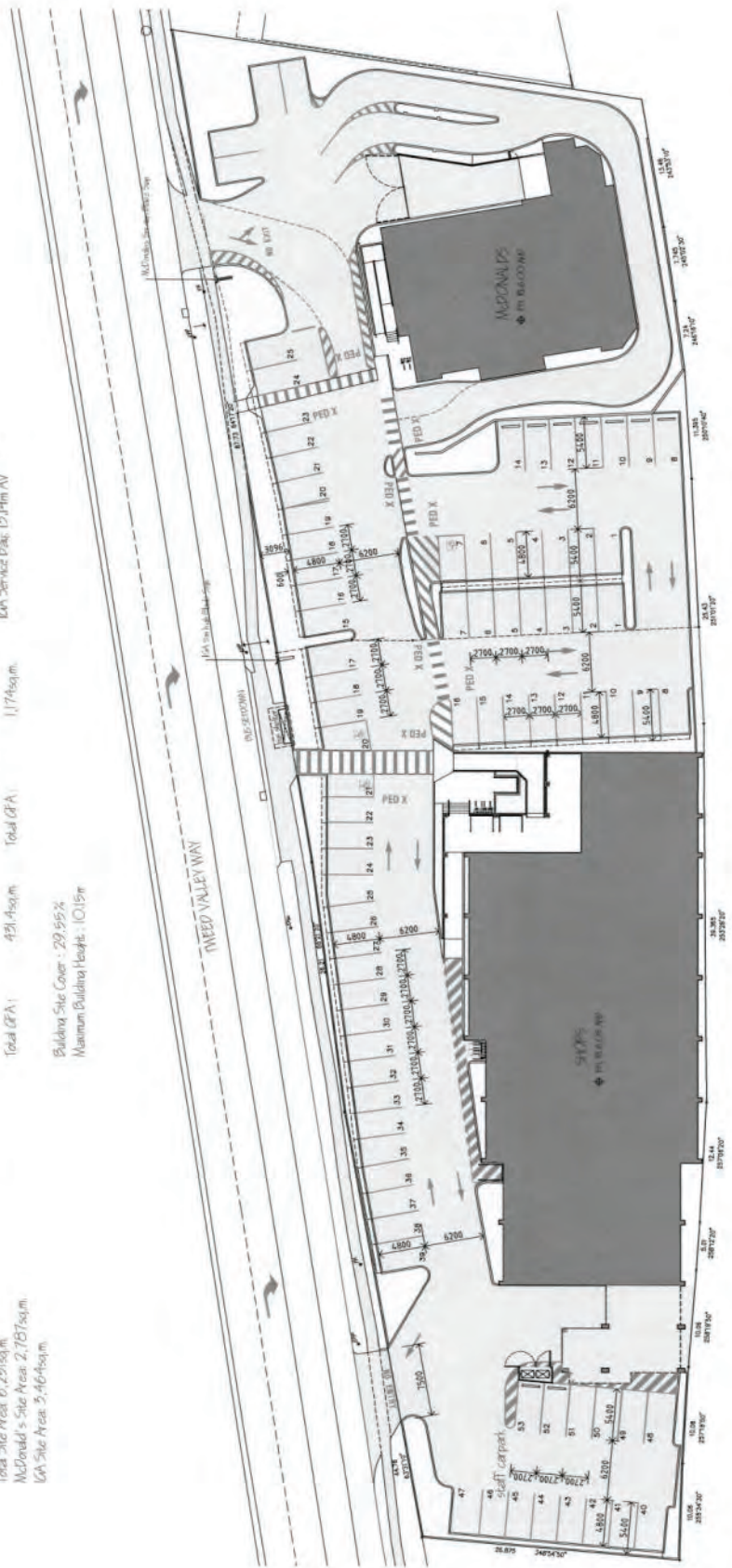
DEVELOPMENT/ELEVATION PLANS:

DEVELOPMENT SUMMARY

Site Details
 Lot and Plan Description: Lots 1-4 DP 4279, Lot 1 DP 185770,
 Lot 1 DP 457967, Lot 1 DP 445292,
 Lot 17 DP 965698 and Lot 18 DP 962878
 Parish: Murrumbidgee
 County: Rose
 Total Site Area: 6,251sqm
 McDonald's Site Area: 2,787sqm
 IGA Site Area: 3,464sqm

Building Details
 McDonald's GFA: 541,9sqm
 Terrace GFA: 42,8sqm
 Playland GFA: 18,9sqm
 Carrol GFA: 23,2sqm
 Total GFA: 626,8sqm
 Building Site Cover: 29,55%
 Maximum Building Height: 10,15m

Parking and Services
 Car Parking Bays: 79
 Disabled Parking Bays: 3
 Total Parking Bays: 82
 McDonald's Service Bay: 13,4m x 11,9sqm
 IGA Service Bay: 13,4m x 11,7sqm



<p>RIG Architecture Pty Ltd 11/11-11/12/11 Phone: (07) 5266 3288 www.rigarchitecture.com.au</p>		<p>Designs Incorporated Issues Drawings Verify all dimensions on site</p>	
<p>27/11/11 L REVISIONS LAYOUT & DIMENSION ADJUSTMENTS</p>		<p>25/01/12 R MODIFIED LAYOUT & DIMENSION ADJUSTMENTS</p>	
<p>23/12/11 R CHANGES REQUESTED REVISIONS</p>		<p>15/11/11 O CLIENT REQUESTED REVISIONS</p>	
<p>15/05/11 R REVISIONS LAYOUT</p>		<p>28/05/11 R CORRECTED LOT DESCRIPTION</p>	
<p>04/11/11 R PRE-DA SUBMISSION</p>		<p>04/11/11 M DA SUBMISSION</p>	
<p>24/11/11 R REVISIONS LAYOUT</p>		<p>04/11/11 M DA SUBMISSION</p>	
DATE	ISSUE	REVISION DESCRIPTION	DATE
27/11/11	L	REVISIONS LAYOUT & DIMENSION ADJUSTMENTS	27/11/11
23/12/11	R	MODIFIED LAYOUT & DIMENSION ADJUSTMENTS	23/12/11
15/05/11	O	CLIENT REQUESTED REVISIONS	15/05/11
04/11/11	R	PRE-DA SUBMISSION	04/11/11
24/11/11	R	REVISIONS LAYOUT	24/11/11
04/11/11	M	DA SUBMISSION	04/11/11
04/11/11	M	DA SUBMISSION	04/11/11

SITE ADDRESS: 250 TWEED VALLEY WAY, MURRUMBIDGE
 DRAWING: SITE DEVELOPMENT PLAN
 SCALE: 1:1000 A3
 JOB REFERENCE: 95464
 DRAWING: 95464
 ISSUE: R

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 8 – Consent Considerations

Clause 8 matters were taken into consideration during the original assessment of the proposed development. The proposed modifications are not considered to trigger any reassessment of the Clause 8 consent considerations.

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

Tweed Development Control Plan

A2 - Site Access and Parking Code

The original assessment determined that the proposed 82 spaces for the mixed use development were acceptable. No changes are proposed to the overall number of spaces for the development.

A4 – Advertising Signs Code

Although not part of this application, it is noted that the applicant has revised the proposed signage in an effort to comply with the signage code. The number of signs per business is compliant and the pylon signs have been reduced in size. These issues are associated with the deferred commencement conditions and are therefore being assessed separately to this application.

B22 – Murwillumbah Town Centre

Issues raised with the development (in terms of DCP B22) were addressed in the original assessment by way of deferred commencement conditions. Again, these issues are being assessed separately to this application.

(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

Lighting Impact

During the assessment of the original application the applicant provided a report by DMA Professional Engineers, in response to Council's concerns regarding potential lighting impacts.

It was determined that the approved development be subject to a condition which allows the intensity of illumination of the lighting to be changed if necessary. A standard condition of consent (Condition 3) was applied in this regard.

Condition 3 currently reads as follows:

3. *All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.*

The applicant has requested that Condition 3 be deleted, noting the following:

"We submit that the installation of automatic dimmer switches on all illuminated signage is not required. As part of the Response to Further Issues Letter dated 17 January 2012, we sought advice from DMA

Professional Engineers which addressed and demonstrated the proposed illuminated signs comply with Australian Standards as follows:

- The nearest house (226 Tweed Valley Way) is approximately 30 metres away from the subject site. When standing 25 metres away from, and directly in front of, any illuminated sign, the luminous emittance is just under 2 lux. Based on the same test results, the maximum intensity from the signs is only 200 candelas. These results are in compliance with AS4282 ('Control of the obtrusive effects of outdoor lighting'), which prescribes a maximum of 4 lux at a window of a habitable room and 2500 candela to parts of a residential property that may experience extended viewing of the light source;*
- Due to the proposed construction of an acoustic barrier along the eastern boundary of the subject site, the actual light spill into 226 Tweed Valley Way will be shielded by the fence and the existing commercial buildings situated between the two properties; and*
- It follows that given the properties along Tumbulgum Road are at least 180 metres away from the subject site, the luminous emittance and intensity of all illuminated signs are therefore well within the compliance limits of AS4282.*

More specific information demonstrating that automatic dimmer switches are not required on the pylon signs is provided below.

McDonald's Pylon Sign

The McDonald's pylon sign produces just under 2 lux at 25 metres away, directly in front of the sign. Accordingly, the illuminance provided by the sign at the nearest residential property, which is approximately 30 metres to the north-east, is minimal. The illuminance is reduced even further as a result of the house being partially shielded by an existing commercial building and the acoustic barrier to be provided as part of the development.

We note that AS4282 allows a maximum of 4 lux at a window of a habitable room and the illuminance calculated in lux needs to allow for all lighting and signs emitting light at the window. However, the contribution from the McDonald's sign will be very low and well within the maximum permitted.

There are existing pylon signs located on the commercial property situated between the subject site and the nearest residential property identified above. One of these pylon signs is within a few metres of the house and there is also a flood light angled well above the horizontal plane very close to the boundary of this house, which emits light in the direction of this house.

Given that one candela produces 1 lux at a distance of 1 metre and given that the highest reading taken from other McDonald's signs is approximately 200 lux at 1 metre, the maximum intensity of the sign is therefore approximately 200 candelas. This is well under the requirements of AS4282 which allows 2500 candelas to parts of a residential property that may experience extended viewing of a light source.

It is also noted that a McDonald's pylon sign was approved by the Sydney Airport for the site located adjacent the Sydney Airport at General Homes Drive, Mascot, NSW, which is a very light sensitive location, thus

demonstrating that McDonald's signage is appropriate in locations that may be sensitive to lighting effects, such as residential uses.

IGA Pylon Sign

The IGA pylon sign is located approximately 100 metres away from the nearest house and therefore, it is expected that the obtrusive light reaching this house to be very low in relation to the candela and lux requirements of AS4282. Although we do not have test results from the IGA pylon sign, the basic principles of the sign construction will be similar to that of the McDonald's sign and even if it is 2-3 times brighter, the effect on the nearest residential house will be minimal in relation to AS4282 requirements.

Visual Impact of Illuminated Lighting

In response to the information supplied to Council dated 17 January 2012, Council's Urban Planner provided the following comments with regard to lighting considerations:

'The issue of potential impacts experienced by residents and visitors north of the Tweed River looking back across the river particularly at night time have not been appropriately addressed or understood. The lighting analysis largely focussed on localised lighting levels rather than a wide contextual and visual character assessment. This is particularly pertinent considering the proposed 24hr operation of the McDonald's Restaurant.'

The Applicant provides the following further information in response to these comments, which are also relevant to the requested removal of Condition 3:

- AS4282 provides a common and measurable basis to assess of the likely effects of developments that involve the provision of outdoor lighting. An appropriate company, DMA Professional Engineers, with competence in the fields of illuminating engineering and environmental design has been consulted to remove any doubt on the potential effects on the surrounding area, as demonstrated above. The measurable nature of AS4282, which this development complies with, ensures the avoidance of neighbourhood disputes involving residents who experience discomfort or annoyance as a result of perceived lighting impacts; and*
- Schedule A of the Deferred Commencement Consent requires reductions to the scale and nature of signage on the site. Specifically, Schedule A, Condition 1(b) requires the two pylon signs to be reduced to a height of 5.0 metres and Schedule A, Condition 1(c) requires an overall reduction in the number of signs on the site in accordance with DCP A4. A request for compliance assessment against the Deferred Commencement Conditions has been submitted to Tweed Shire Council on 02 April 2012 under a separate cover to demonstrate achievement of these conditions. As a result of the proposed reduction in signage, it follows that the visual impact upon the surrounding area at night will be lessened whilst providing adequate visibility and safety for passing motorists and patrons at the 24 hour McDonald's operation.*

Summary

In accordance with the information previously supplied to Council and the further information outlined above, we hereby reiterate the Applicant's view that automatic dimmer switches on the illuminated signs are not required and accordingly, we respectfully request that Condition 3 be deleted. Compliance with AS4282 as well as DCP A4 will be achieved without the use of dimmer switches."

Council's Environmental Health Unit has provided the following comment:

*"Potential impacts on amenity associated with lighting were considered during the development assessment process. Condition No. 3 is a standard condition that was included to protect the amenity of the local area. Following further review of the standard condition it is considered that installation of lighting shielding is more likely to be used as an ameliorative measure to address lighting conflicts, rather than changing lighting intensity. Any complaints relating to lighting conflicts would be assessed against an appropriate standard, such as AS 4282 Control of the obtrusive effects of outdoor lighting. If non-compliance with the appropriate standard is identified, the onus would be on the applicant/occupant to address the matter. It is considered that the recommended condition is not essential to the consent, therefore the requested amendment, deletion of the condition, is supported.
"*

As such, the applicant's request to delete Condition 3 is supported.

An additional condition of consent (Condition 11) was applied to the original approval in relation to car parking floodlighting.

Condition 11 currently reads as follows:

11. *Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS4282 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.*

The applicant has requested that Condition 11 be modified, noting the following:

"A lighting plan was prepared by DMA Professional Engineers and submitted as part of the Response to Further Issues letter dated 17 January 2012. Therefore, it is proposed to amend Condition 11 to acknowledge the completion of the lighting plan".

The applicant proposes to amend Condition 11 to read (changes shown in bold):

- 11A. *Any car parking floodlighting shall **be designed in accordance with the Lighting Plan by DMA Professional Engineers.** ~~not spill beyond the boundaries of the site. Lighting shall comply with AS4282 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.*

Council's Environmental Health Unit has provided the following comment:

"Condition No. 11 is a standard condition that has been included to protect the amenity of the local area. Ensuring that car parking flood lighting does not spill beyond the boundaries of the site, and complying with AS 4282 are

considered to be important requirements in relation to protecting amenity. The Lighting Plan prepared by DMA Professional Engineers does not confirm that there will be no light spill from car parking floodlighting. Therefore it is considered that the condition proposed by the applicant does not meet the minimum standard previously nominated by Council ie the standard condition. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to delete Condition 11 is not supported and is recommended to remain unchanged.

Car Parking

A comprehensive car parking assessment was undertaken during the original assessment of the development. 82 car spaces were considered to be acceptable for the mixed use development. A standard condition of consent (Condition 12) was applied requiring full detail design of the 82 space car park prior to the issue of a construction certificate.

Condition 12 currently reads as follows:

12. *The developer shall provide 82 parking spaces parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 – Site Access and Parking Code.*

Full design detail of the proposed parking and manoeuvring area 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 Certification.

The applicant has requested that Condition 12 be deleted or modified to improve clarity, noting the following:

"Given the development application provided a site plan clearly shows the provision of 82 car parking spaces, a Traffic Impact Assessment showing all manoeuvring, and a Landscape Concept Plan showing all integrated landscaping, it is unclear what this condition seeks to achieve and therefore further clarification, or otherwise removal, of this condition is respectfully requested."

Council's Development Engineer has provided the following comment:

"This condition should remain. While it is acknowledged that the requirements of this condition have been met by other (existing) plans and reports, it must be noted that the 'Deferred Commencement' requirements of the consent require modification of some of those plans – primarily to increasing the landscaping areas on the site.

This condition ensures that the car parking requirements are not overlooked, and that the final car parking layout remains compliant and compatible with the landscaping plans, irrelevant to whatever other plan amendments are made.

This condition could however be clarified to differentiate the number of car spaces required for each lot/stage – including 16 parking spaces that will be shared between the two developments (7 in Lot 11 and 9 in Lot 12). In this regard the allocation of 29 parking spaces for Lot 11 (McDonalds' site) and 53 parking spaces for Lot 12 (IGA + others) (as per the original Statement of Environmental Effects) is recommended for nomination."

Accordingly, the following amendment to Condition 12 is proposed for the purposes of clarity (amendments shown in bold):

12A. The developer shall provide **a total of 82 parking spaces** including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 – Site Access and Parking Code.

The required parking spaces relevant to each Stage of the development site are:

Stage 1 (McDonalds): 29 parking spaces, plus 9 shared parking spaces from Stage 2.

Stage 2 (IGA / specialty shops): 53 parking spaces plus 7 shared spaces from Stage 1.

Full design detail of the proposed parking and manoeuvring area 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 Certification.

Developer Contributions

Applicable developer contributions were applied to the proposed development, based on proposed uses and floor area less an applicable site credit. Section 94 contributions Tweed Road Contribution Plan (TRCP) only were applied under **Condition 13**, which currently reads as:

13. 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 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:

440.598 Trips @ \$1807 per Trips \$796,161

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

credit has been undertaken by Council's Traffic Engineer and a significant reduction is recommended. The following calculations were provided by Council's Traffic Engineer, which includes a breakdown of the contribution to reflect the individual stages:

"To be consistent and equitable I have determined previous land use and applied the existing TRCP Trip generation rates to determine credits available as follows:

Former Norco Site uses and GFA

Source: - Martin Findlater and Associates, DA 4030/4382Pt 1 Pg 2 14/1/2002

Component	Size
Factory	1,500m ²
Store showroom	260m ²
Warehouse	245m ²
Fuel Pumps	3

TRCP calculations based on above table (previous use)

Component	Size	Line Item	Rate	Trips
Factory	1,500m ²	28	5/100 GLA	5 x 15 = 75
Store showroom	260m ²	14	40/100 GLA	40 x 2.6 = 104
Warehouse	245m ²	29	4/100 GLA	4 x 2.45 = 9.8
Fuel Pumps	3	6	200/pump	3 x 200 = 600
Total				(a) 788.8

Trips generated by current proposal

	Size	Line Item	Rate	Trips
McDonalds	384.3	23.1	200/100	768.6
IGA	1112	9	200+(.8 x 1112)	1089.6
Total				(b)1858.2

Therefore, **(b)1858.2 – (a)788.8 = 1069.4 net trips**

Apply employment generation factor to both uses:

$$1069.4 \times 0.6 = \mathbf{641.64}$$

Proportion trips for each activity to determine Modification factor

$$\text{McDonalds} - 768.6/1858.2 \times 100/1 = 41.4\%$$

$$\text{IGA} - 1089.6/1858.2 \times 100/1 = 58.6\%$$

Therefore, trip allocation per development type

$$\text{McDonalds} - 641.64 \times 0.414 = \mathbf{265.6}$$

$$\text{IGA} - 641.64 \times 0.586 = \mathbf{376.0}$$

Modification factor under Table 3.6.1B

$$\text{McDonalds} - \text{Fast food outlet with drive thru} = \mathbf{0.65}$$

$$= 265.6 \times 0.65 = \mathbf{172.6}$$

IGA – Shop rate > than 100m2 but < 6000m2

$$376.0 \times 0.2186 = 82.2$$

Total Trips for development

$$172.6 + 82.2 = 254.8$$

As a result of the above calculations, Council's Development Engineer noted the following:

"The applicant's request for reconsideration of the TRCP contribution has been pursued and re-assessed, but their 'Independent Developer Contributions Charges Review' submission is NOT accepted with regard to the TRCP assessment. Nevertheless a significant reduction (42%) of the original contribution amount has resulted.

Since the applicant has requested further clarification of the consent conditions with regard to staging, it is prudent to use the individual modified trip calculation to determine the applicable TRCP contribution applicable to each stage, and include this in the condition:

Stage 1 (McDonalds): 82.2 Trips @ \$1,807 = \$148,535.40

Stage 2 (IGA / shops): 172.6 Trips @ \$1,807 = \$311,888.20"

Accordingly, it is recommended that Condition 13 be amended as follows (modifications shown in bold):

13A. 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 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.

Stage 1 (McDonald's)

(a) Tweed Road Contribution Plan:

82.2 Trips @ \$1807 per Trips **\$148,535**

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

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Stage 2 (IGA / Specialty Shops)

(a) Tweed Road Contribution Plan:

172.6 Trips @ \$1807 per Trips **\$311,888**

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

With regard to the applicant's submission and request for re-assessment of the site credit to be applied to Condition 15 (water and sewer contributions), Council's Water Unit has accepted the proposed modification. However, to be consistent with Condition 13, the contributions need to be split into the two stages. In order to be equitable, the 9 ET credits have been applied to the total amount and the total figure split proportionally between the two stages. As such, the following modification to Condition 15 is recommended (amendments shown in bold):

15A. 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:

Stage 1 (McDonald's)

Water DSP2: **3.9651 ET @ \$11571 per ET** **\$45,880.20**

Sewer Murwillumbah: **10.8248 ET @ \$5560 per ET** **\$60,185.90**

Stage 2 (IGA / Specialty Shops)

Water DSP2: **0.7879 ET @ \$11571 per ET** **\$9,116.80**

Sewer Murwillumbah: **1.9576 ET @ \$5560 per ET** **\$10,884.30**

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

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.

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.

It is unclear as to whether the applicant has included Condition 14 (TRCP Heavy Haulage component) in their Section 96 application. Council's Development Engineer has noted that no alterations to Condition 14 are warranted with regard to staging of the development. However, as site filling is likely to be undertaken

in stages, with part of this in conjunction with Section 68 sewer approval, a minor modification is recommended.

Heavy Haulage contributions were applied under **Condition 14**, which currently reads as follows:

14. *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:-

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

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 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

It is recommended that Condition 14 be amended as follows (modifications shown in bold):

14A. *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:-

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.6

This is also applicable prior to the issue of any Section 68 sewer infrastructure construction approval.

Bus Shelter

The original application incorporated a bus shelter within the boundary of the subject site (see Figure 1 below). The original assessment of the shelter determined that not enough information had been provided to ensure that it would comply with Council's standards. As such, a condition of consent (Condition 23) was applied.

Condition 23 currently reads as follows (relevant section shown in bold):

23. *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) *Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property*

boundary, and the western (egress) driveway shall be 7.5m wide at the property boundary.

- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Section 138 application. At this time Council may consider the installation of 'No Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.

The above-mentioned Section 138 application is required to also include details of the proposed bus shelter that will be erected within the site, to ensure it is compliant with Council's standards. The bus shelter will not however gain approval for construction via the Section 138 application.

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

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

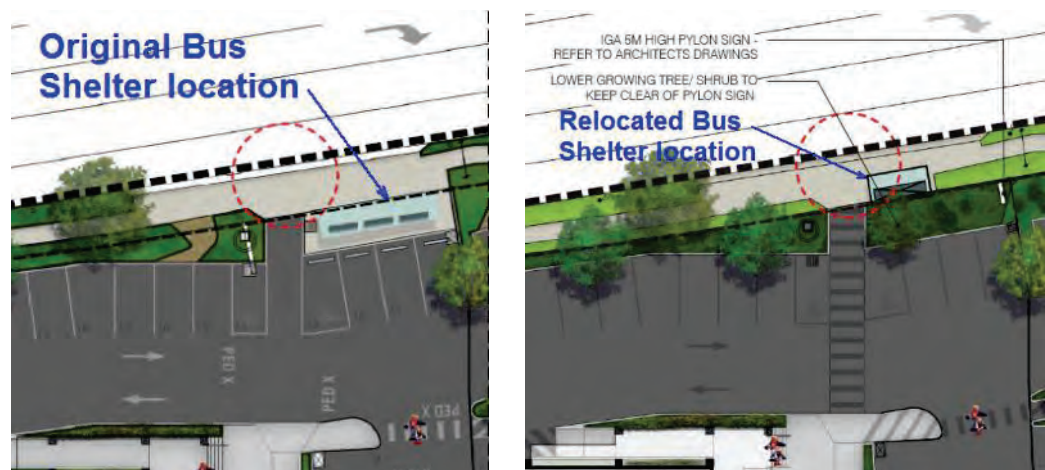


Figure 1 – Comparison of original and revised location of bus shelter

The applicant has requested that Condition 23 be modified, noting the following:

"In order to increase the amount of landscape on the site, it is proposed to relocate the bus shelter onto Council land. The Overall Site Plan

demonstrates how the relocated bus shelter can be positioned within the road reserve without adequately impacting the ongoing use of the footpath."

The applicant proposes to amend Condition 23 to read as follows (changes shown in bold):

23A. *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) Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property boundary, and the western (egress) driveway shall be 7.5m wide at the property boundary.*
- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.*
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Section138 application. At this time Council may consider the installation of 'No Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.*

*The above-mentioned Section 138 application is required to also include details of the proposed bus shelter that will be erected **on the road reserve/footpath**, to ensure it is compliant with Council's standards. The bus shelter will not however gain approval for construction via the Section 138 application.*

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

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

Although no formal comments were received from Council's Traffic Engineer with regard to the revised bus shelter location, discussion between Council's Traffic Engineer and Development Engineer confirmed that the proposed bus shelter relocation is satisfactory, subject to it being built to Council's standards, a full width concrete footpath is provided, and all works are subject to separate S138 approval. Council's Development Engineer has also provided the following comment:

"No objections to relocation of the bus shelter from within the site to the footpath area. Amendment of this condition is required, but not as per applicant's submission."

The following modification to Condition 23 is proposed by Council's Development Engineer (amendments shown in bold):

23A. *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. **The matters covered by this condition are required to be completed in conjunction with the first stage of the development under construction.** Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:*

- (a) Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property boundary, and the western (egress) driveway shall be 7.5m wide at the property boundary.*
- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.*
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Section 138 application. At this time Council may consider the installation of 'No Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.*
- (d) Construction of a bus shelter to Council's standards midway along the site's frontage.***

~~***The above mentioned Sec.138 application is required to also include details of the proposed bus shelter that will be erected within the site, to ensure it is compliant with Council's standards. The bus shelter will not however gain approval for construction via the Sec.138 application.***~~

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

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

Heritage Impact Statement

The Statement of Environmental Effects lodged with the original application for this development noted that the existing building on the site would be demolished. Subsequent to issues raised by submissions, the applicant provided documentation noting that the existing building would be donated to a suitable local beneficiary for future use. Given that the *Tweed Shire Community Based Heritage Study* identified the site as a potential heritage item, the approval was conditioned such that a Heritage Impact Statement was required, which incorporated details on the building's heritage value and details of its proposed relocation, rehabilitation, funding and ongoing management.

The applicant has subsequently lodged an Impact Statement for the existing building, which demonstrated that the heritage value for the Norco Rural Store was low (i.e. the Impact Statement concluded that the building is not considered to reach the threshold for local heritage listing). As a result, the applicant proposed to demolish the building. Council staff have accepted the applicant's Impact Statement, but highlighted that demolition was not approved and as such the current S96 application would need to be amended to include any proposed modification of Condition 38. The applicant was advised that a demolition work plan would also be required.

Condition 38 currently reads as follows:

38. *Prior to the issue of a Construction Certificate a Heritage Impact Statement is to be submitted and approved by Council's General Manager or his delegate, in relation to the existing building along the eastern boundary of the site. The Statement is to be prepared by a suitably qualified heritage consultant documenting the building's heritage value and providing details of its proposed relocation, rehabilitation, funding and ongoing management.*

The applicant has requested that Condition 38 be modified, noting the following:

"Further to Council correspondence dated 04 June 2012, we wish to delete Condition 38 of the Schedule B conditions, and replace this with a new condition that enables the demolition of the building. It is respectfully requested that this new condition include the preparation of a Demolition Work Plan, which is to be submitted to Council prior to the issue of a Construction Certificate. We trust that Council will have a standard condition for these matters."

As noted above, Council does not oppose the proposed demolition of the existing building on site. As such, the following amendment of Condition 38 is recommended (changes shown in bold):

- 38A. *Prior to the issue of a Construction Certificate a **Demolition Work Plan** ~~Heritage Impact Statement~~ is to be submitted and approved by Council's General Manager or his delegate, in relation to the existing building along the eastern boundary of the site. ~~The Statement is to be prepared by a suitably qualified heritage consultant documenting the building's heritage value and providing details of its proposed relocation, rehabilitation, funding and ongoing management.~~*

Lot Consolidation

The subject site incorporates a total of nine (9) separate parcels of land. Although the applicant acknowledged that the site would eventually be subdivided into two separate parcels, subdivision was not proposed as part of the original application (although it is noted that a subdivision application has now been

lodged with Council and is under separate assessment). As such, a standard condition of consent (Condition 103) was applied in this regard.

Condition 103 currently reads as:

103. 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 the issue of an Occupation Certificate.

The applicant has requested that Condition 103 be modified, noting the following:

"The Overall Site Plan that was originally submitted to Council showed a dashed line indicating the future subdivision plan to separate the McDonald's Restaurant from the building containing the IGA and specialty shops, as well as a series of reciprocal car parking easements to ensure both buildings are supplied with the approved car parking thresholds.

This arrangement has been recognised in Condition 9 which states "The proposed development is to be staged in two stages, being the McDonalds stage and the IGA / Shops stage. The access and shared car parking easements must be completed together with the first stage of the development under construction".

If the lots were to be consolidated into one (1) lot, then this would conflict with Condition 9 as there would be no burdening or benefiting lot that are necessary in order for reciprocal access easements to function. Further, given that the development can operate, in accordance with the Notice of Decision, across two lots, there is no reason to consolidate these parcels into a single parcel. It is therefore requested that Condition 103 be amended to require the lodgement of a subsequent subdivision application that rationalises the existing lot boundaries into two, well-defined lots with appropriate easements for car parking and access."

The applicant proposes to amend Condition 103 to read as follows (changes shown in bold):

*103A. The lots are to be consolidated into **two (2) lots under two (2) separate titles. The lots are to be arranged in a manner that separates the McDonald's Operation from the building containing the IGA and specialty shops. The subdivision will require separate development consent for submission to Council. The subdivision plan must show any access easements required over driveways and car parking areas (as required) so as to ensure the development remains lawful.***

Council's Development Engineer has provided the following comment:

"Amendment of this condition is necessary, as the applicant now appears to have a sense of urgency regarding the future subdivision / consolidation of the site, in lieu of this occurring at some vague time in the future. Extensive amendment is required to address (avoid) conflicts that could be created as a consequence of necessary sewer main construction."

The following modification to Condition 103 is proposed by Council's Development Engineer (amendments shown in bold):

103A. 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 and subdivided into two (2) lots.~~

The Subdivision Certificate is to be issued and proof of registration of the plan of subdivision provided to Council prior to the issue of any Occupation Certificate for the site.

Council's Development Engineer has requested that a new Prior to the issue of a Construction Certificate (PCC) condition be applied, to help facilitate the future subdivision of the site. The proposed new condition (**Condition 40.1**) is:

40.1. Development consent for the 2 lot subdivision / amalgamation of the site is to be issued prior to the issue of any construction certificate for building works on the site. Specific requirements to facilitate the subdivision proposal are:

- a) *Construction of an extension of Council's sewer main infrastructure is a requirement of the subdivision proposal. This work can only commence once bulk earthworks for the road frontage area of the site has been completed.*
- b) *The sewer main extension is to be laid prior to commencement of any building work on the site.*
- c) *Final testing and CCTV inspection of the new infrastructure is ideally undertaken after all site and building works are completed, but if this is not achievable, then at the earliest - after completion of driveway ingress works.*
- d) *All bulk earthworks associated with the internal shared access arrangements (Right of Carriageway and Parking Easements) must be completed and the relevant shared access areas fully constructed prior to the issue of a Subdivision Certificate.*

Amenity

Council consistently applies a standard condition of consent for commercial development to ensure that the proposed use does not impact upon the amenity of the locality. The same condition (Condition 109) was applied to the original approval.

Condition 109 currently reads as:

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.

The applicant has requested that Condition 109 be deleted, noting the following:

"Condition 109 is very broad and is not measurable or quantifiable. If the development is undertaken in compliance with the other conditions, this implies the use will not have an unreasonable impact on noise, dust, odour and the like. The broad and unquantifiable and immeasurable nature of this condition may lead to it being subjectively applied which is uncertain and not appropriate for a condition against which compliance is required. It is therefore respectfully requested that this condition be removed."

Council's Environmental Health Unit has provided the following comment:

"Condition No. 109 is a standard condition that has been included to protect the amenity of the local area. It is likely that it has been included in many other development consents. Such conditions are often used by regulatory officers when investigating complaints related to matters that may have not been considered during the development assessment process. As an example, if Council were to receive complaints relating to late-night noise associated with patron behaviour, Council would be able to investigate the matter under the *Environmental Planning and Assessment Act*. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to delete Condition 109 is not supported and is recommended to remain unchanged.

Similarly, a standard condition (Condition 110) in relation to externally mounted air conditioning units and other mechanical plant or equipment was applied to the original approval.

Condition 110 currently reads as follows:

110. 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 or equipment does not result in the emission of offensive or intrusive noise.

The applicant has requested that Condition 110 be modified, noting the following:

"It is respectfully requested that Condition 110 be amended to acknowledge the acoustic modelling that has previously been supplied to Council."

The applicant proposes to amend Condition 110 to read as follows (changes shown in bold):

*110A. All externally mounted air conditioning units and other mechanical plant or equipment **is** to be located **in accordance with the Noise Impact Assessment completed by MWA Environmental, dated 13 January 2012**. 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 or equipment does not result in the emission of offensive or intrusive noise.*

Council's Environmental Health Unit has provided the following comment:

"Potential impacts on amenity associated with noise were considered during the development assessment process. Condition No. 110 is a standard condition that has been included to protect the amenity of the local area. The condition is nominated as a 'use' condition, therefore it is intended that it will be complied with at all times following occupation. It is not considered that the standard condition is more onerous than the requested amended condition, however it is considered to be more appropriate to manage use of

the development following occupation. Retaining the standard condition is considered to be particularly important should the occupant proposed to alter plant and equipment at some point after occupation. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to modify Condition 110 is not supported and is recommended to remain unchanged.

In terms of external lighting, a standard condition of consent was applied as Condition 112, which reads as follows:

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.

The applicant has requested that Condition 112 be modified, noting the following:

"A lighting plan has been prepared by DMA Professional Engineers and was submitted as part of the Response to Further Issues letter dated 17 January 2012. The conditions should reasonably reference this plan. Furthermore, it has been demonstrated that all other illuminated advertising signage complies with the Australian Standards and will have minimal impact on visual amenity. Therefore, it is proposed to amend Condition 112 to acknowledge the submitted lighting plan, whilst also recognising that other types of lighting (i.e. security lighting) must also be designed to the satisfaction of Council."

The applicant proposes to amend Condition 112 to read as follows:

*112A. All externally mounted artificial lighting, including security lighting, is to be shielded **in accordance with the Lighting Plan completed by DMA Professional Engineers and** 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.*

Council's Environmental Health Unit has provided the following comment:

"Condition No. 112 is a standard condition that has been included to protect the amenity of the local area. As stated previously, the Lighting Plan prepared by DMA Professional Engineers does not confirm that there will be no light spill from car parking floodlighting. Therefore it is considered that the condition proposed by the applicant may not meet the minimum standard previously nominated by Council ie the standard condition. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to modify Condition 112 is not supported and is recommended to remain unchanged.

A condition was applied (Condition 91) to ensure that the air conditioning, refrigeration and exhaust units for the McDonald's Restaurant component of the development to be constructed so that they are screened. An additional condition (Condition 117) was applied to ensure that the operational phase of the development continued to screen the units from surrounding residential land to the east of the site.

Condition 117 currently reads as follows:

117. Individual air conditioning, refrigeration and exhaust fan units for the McDonalds restaurant are to be located behind appropriately constructed roof parapets and / or acoustic screens on the roof level to provide shielding to residential land uses to the east of the property.

The applicant has requested that Condition 117 be deleted, noting the following:

"Condition 117 has been duplicated from Condition 91. It is therefore respectfully that Condition 117 be deleted."

Council's Environmental Health Unit has provided the following comment:

"To protect amenity of the local area it is important that the development be constructed in accordance with the development consent, and maintained appropriately during use. Two identical conditions are included in the consent, No. 91 within the 'during construction' section, and No. 117 within the 'use' section. For the abovementioned reason it is considered important that both conditions be retained. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to delete Condition 117 is not supported and is recommended to remain unchanged.

Similarly, the proposed development was required under Condition 92 to construct an acoustic barrier and then an additional condition (Condition 118) was applied to ensure that the operational phase maintained the barrier for the life of the development.

Condition 118 currently reads as follows:

118. A 2.4 metre high acoustic barrier is to be constructed on the northern portion of the eastern boundary of the site. The acoustic barrier is to be 15m in length, from the northern extent of the eastern boundary. The acoustic barrier is to be gap-free and constructed of materials achieving a minimum surface density of 12.5 kg/m². The acoustic barrier is to be constructed from overlapped timber palings, ply, fibre cement, concrete, steel, glass or any other suitable material achieving the required standards. The barrier shall be maintained to a suitable standard at all times.

The applicant has requested that Condition 118 be deleted, noting the following:

"Condition 118 has been duplicated from Condition 92. It is therefore respectfully requested that Condition 118 be deleted."

Council's Environmental Health Unit has provided the following comment:

"To protect amenity of the local area it is important that the development be constructed in accordance with the development consent, and maintained appropriately during use. Two identical conditions are included in the consent, No. 92 within the 'during construction' section, and No. 118 within the 'use' section. For the abovementioned reason it is considered important that both conditions be retained. The requested amendment is not supported and it is recommended that the condition remain unchanged."

As such, the applicant's request to delete Condition 118 is not supported and is recommended to remain unchanged.

Landscaping Plans

As noted above, deferred commencement conditions have been applied requiring detailed landscaping plans. Plans provided to date by the applicant (for the separate deferred commencement assessment) are conceptual plans (Landscape Intent plans), rather than detailed plans. Whilst the submitted Landscaping Intent plans were satisfactory in demonstrating the increased area of landscaping along the site's frontage, there were no details of where each particular species will be located. Council staff suggested that the landscaping details be included as part of this Section 96 application, to allow the applicant sufficient time to provide the necessary details. As a result, the applicant has now requested that detailed landscaping plans be lodged prior to the issue of a construction certificate.

It should be noted that the applicant proposed to no longer have the pad mounted transformer in the north east portion of the site. Rather, they proposed to have a pole mounted transformer which left the subject area available for landscaping. As a result of discussions with Essential Energy, the applicant has since advised that they now need to revert back to the original design of having a pad mounted transformer on the subject site. Landscaping Intent plans have been submitted to indicate this (see Figure 2).

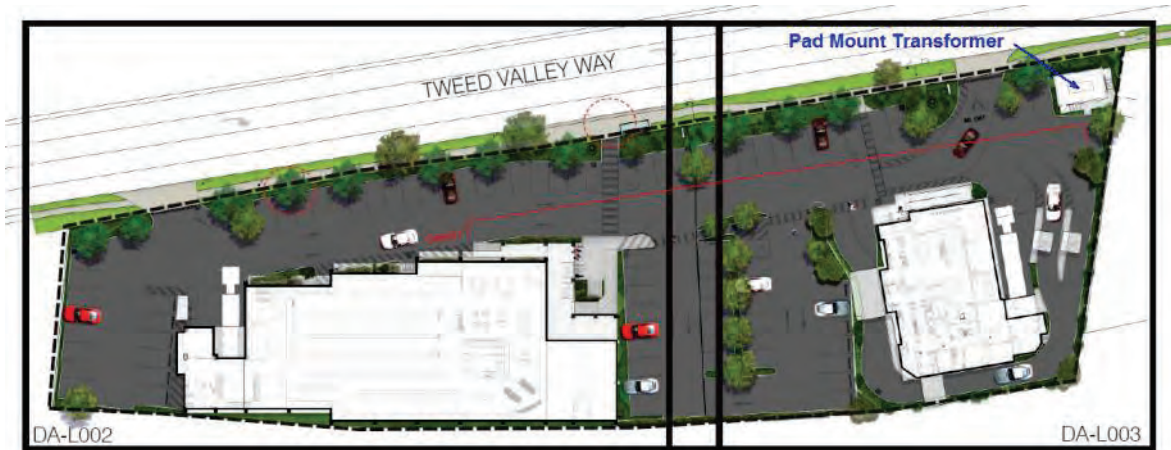


Figure 2 – Revised Landscaping Intent Design

In response to visual amenity issues raised by residents along Tumbulgum Road (to the north of the Tweed River), Council staff approached the applicant to determine if they would be amenable to providing additional landscaping along the river side of Tweed Valley Way. The applicant's response was positive in this regard.

The applicant has requested that Condition 121 be modified, noting the following:

"As previously discussed, please find enclosed an amended Landscape Intent Plan (prepared by Urbis) which shows the re-positioning of the pad mount transformer in the north-eastern corner of the site. By way of background, the Applicant had previously sought to remove the pad mount transformer in favour of a pole mount design (which in turn increased the quantum of landscaping along the site frontage), unfortunately due to design requirements by Essential Energy, we have been advised that a pad mount transformer is the preferred electricity supply method for the entire site.

The pad mount size is approximately the same as what was shown on the last set of drawings before it was removed from the plans (refer to the email 03 February 2012) to provide additional landscaping. The latest Landscape

Intent Plan, as attached, continues to provide visual screening and landscaping in order to ensure the pad mount transformer is not directly visible from Tweed Valley Way.

Amended architectural plans have been supplied separately to Council via email correspondence on 30 May 2012. Furthermore, and as a result of the provision of Landscape Intent Plans for assessment, we wish to amend Condition 121 of the Schedule B conditions (in accordance with Council correspondence dated 04 June 2012) to require the completion of detailed on-site landscaping plans to be approved by Council prior to the issue of a Construction Certificate.

The condition should also acknowledge the Applicant's support of providing equally-spaced, 'boulevard' plants along the river side of Tweed Valley Way that will help to screen the development from Tweed River. Species and spacing of plants shall be confirmed at the time of preparing detailed landscaping plans, as described above. Plant selection will primarily be at the discretion of a qualified landscape architect; however the Applicant shall seek to liaise with Council's Recreational Services Unit during the preparation of the plans. Long-term maintenance of the trees is to be undertaken by Council."

As noted above, Council does not oppose the proposed landscaping details to be provided at a later stage (i.e. PCC). However, Condition 121 is a USE condition and is not considered to be the appropriate condition to modify. Instead, a new PCC condition is proposed as **Condition 40.2**:

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

The detailed plan must indicate the proposed location of each species within the proposed landscaped areas of the site.

In terms of the planting along the river side of Tweed Valley Way, Council officers investigated the possibility of this happening and what would be required in terms of maintenance etc. The following issues were raised:

- The embankment is quite narrow, is very steep and may require some geotechnical assessment prior to any works commencing, to ensure the stability of the embankment (given its close proximity to the roadway);
- The slope of the embankment would rule out normal boulevard trees being planted. Appropriate riparian plant species would be required, which would possibly limit the ability to reach sufficient height to provide screening for residences across the river;
- Council would require an approved Management Plan for the area, which would need to be prepared by a suitably qualified and experienced riparian restoration person, in accordance with Council's Habitat Restoration Plan guidelines; and
- Council would require the area to be maintained by the developer for a standard period of five (5) years. The slope of the embankment would require specialised people to maintain the area (using abseiling type equipment to access the area).

In order to ensure that the applicant was fully aware of the requirements and responsibilities involved with such a constrained area, the applicant was advised of the above issues and requested to confirm if they were still agreeable to providing additional landscaping along the river side of Tweed Valley Way.

The applicant provided the following response:

"Unfortunately due to the costs associated with geotechnical reporting, the 5 year maintenance period, and most importantly the uncertainty of riparian vegetation screening the development from the residences across the River (the very purpose of providing additional plants), our Client has decided to not proceed with the proposed landscaping along the river side of Tweed Valley Way.

We however appreciate Council advising us of these requirements in advance of the Council meeting.

Despite the absence of the river side plantings, it is noted the development nonetheless is making all attempts to reduce light spill within acceptable design standards and reduce the quantum of illuminated signage."

As a result, the applicant's previous request to include an additional condition with regard to 'boulevard' plants along the river side of Tweed Valley Way (to screen the development from Tweed River) is no longer applicable. Given that the appropriate plant species for the embankment may not even grow to sufficient height to provide any beneficial screening, the applicant's reluctance to proceed with the additional landscaping is understandable.

Despite this, the fact remains that the majority of the applicant's requests to modify various lighting conditions have not been supported, which will benefit the surrounding locality in terms of amenity.

Staging of the development

Although no specific plan has been provided in terms of the proposed staging of the development, the applicant advised Council during the assessment of the original application that the two components (McDonald's restaurant and IGA / specialty stores) of the development would be constructed separately.

The applicant has requested that Council undertake an assessment of various conditions to determine whether amendments are required to clarify the proposed staging, stating the following:

"Given the proposed staging of this development and the need for the conditions to reflect the staged nature of the development it is respectfully requested that Council consider providing further written clarification or statements relating to Conditions 6, 11, 12, 16, 17, 23, 26, 27, 34, 37, 62, 84 and 95 which outline how these conditions function when the development is staged."

Council's Development Engineer has provided the following comment:

"The applicant now appears to require subdivision of the site as an integral part of the site's current development strategy, instead of at some vague time in the future. Previously Council's only (land titling) requirement was for consolidation of the site – which does not require development consent – whereas subdivision DOES require development consent. Extra consent conditions are required in the "Pre CC" section to ensure necessary

subdivision works (particularly sewer servicing) are undertaken at the appropriate time.

From an 'engineering' perspective, not all the nominated conditions (above) have engineering significance. The assessing Planner has requested specific 'engineering' comments relevant to Conditions 12, 13, 15, 23 and 103 nevertheless a brief comment (at least) is provided for all conditions.

While the approved development includes consent for staging – with the McDonalds venture being separate to the IGA / speciality shop development – the applicant has not nominated which 'stage' will be undertaken first. It is highly likely that the McDonalds 'stage' will be first, and for ease of providing comments will be deemed 'Stage 1'.

The proposed internal subdivision / amalgamation boundary matches the stage boundary, and will provide for a clear separation of the two different uses (restaurant and shops) on the site.

Note: since the applicant has raised issues and requested clarification regarding staging and future subdivision of the development site, reconsideration of this aspect of the development is appropriate. Modification and/or creation of new conditions will be recommended that will require:

- All site filling to be undertaken in conjunction with the first stage of the development being constructed, unless required earlier in conjunction with sewer main construction. Condition 19 is to be amended to address this.
- The 2 lot subdivision would normally need to be completed PRIOR to issue of any construction certificate, to ensure that all services for the individual lots are provided – with no need for retro-fitting such connections once the site (or part of it) is fully constructed. This approach is particularly relevant if work on later Stages is delayed for any significant period of time. This is consistent with the approach taken on prior similar developments where staging is proposed and different owners are involved, and would necessitate the immediate extension of the sewer main and provision of individual water connections.

However due to the nature of this subdivision, where the boundary location will be partly dependant on the as-constructed car parking locations, it is considered that a modified approach is warranted. It will be recommended that:

- The DA for the subdivision will need to be approved prior to the issue of any CC (DA 12/0113 submitted and currently under assessment) for building works on the site. Building works cannot commence however, until the sewer main is constructed.
- Construction of an extension of Council's sewer main infrastructure is a requirement of the subdivision proposal. This work can only commence once bulk earthworks for the front portion of the site, including all areas associated with the internal shared access arrangements (Right of Carriageway and Parking Easements), has been completed. (Rear of site and building

footprints are also to be filled, but this has no consequence on sewer main infrastructure works.)

The sewer main extension must be laid prior to commencement of any building works on the development site.

Final testing and CCTV inspection of the new infrastructure is ideally undertaken after all site and building works are completed, but if this is not achievable, then at the earliest - after completion of driveway ingress works.

- *All bulk earthworks associated with the internal shared access arrangements (Right of Carriageway and Parking Easements) must be completed and the relevant shared access areas fully constructed prior to the issue of a Subdivision Certificate.*
- *The Subdivision Certificate will need to be issued and proof of registration of the plan subdivision provided, prior to the issue of any Occupation Certificate for the development.*

Note that all servicing connections (sewer, water, electricity & telecommunication) for the individual lots will be undertaken as part of the subdivision process, so both lots – whether developed or not – will be fully serviced prior to or in conjunction with the Stage 1 works (or whichever Stage is commenced first)."

The following is an assessment of the applicable conditions of consent that may need amendment as a result of the staging of the development.

Condition 6 – Trade waste licence

Council's Development Engineer has noted that this condition is not directed at individual lots but "any business or premises" and therefore no amendment is considered warranted.

Condition 11 – Car parking lighting

Council's Development Engineer notes that this condition is not directed at individual lots and therefore no amendment is considered warranted.

Condition 12 – Car parking numbers and standards

Condition 12 has been addressed in the assessment report above, with regard to staging and the condition has been recommended for modification appropriately.

Condition 16 – Long service levy payment

This condition is not directed at individual lots and therefore no amendment is considered necessary.

Condition 17 – Imported fill

Condition 17 currently reads as follows:

17. *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.*

Council's Development Engineer has recommended a modification to Condition 17, to address the use of imported fill for sewer infrastructure construction works under separate Section 68 approval.

The following modification to Condition 17 is proposed (amendments shown in bold):

*17A. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate **that includes site filling OR Section 68 approval for construction of sewer main infrastructure**, 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.*

Condition 19 – Site filling

Condition 19 currently reads as follows:

19. 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 Section 68 stormwater application for Council approval.

Council's Development Engineer has recommended a modification to Condition 19, in relation to staging and sewer main construction.

The following modification to Condition 19 is proposed (amendments shown in bold):

19A. 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 site filling to be undertaken in conjunction with the first stage of the development being constructed, unless required earlier in conjunction with sewer main construction.

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.

Condition 23 – Section 138 application requirements

Council's Development Engineer has recommended that an extra sentence to be inserted to ensure this work is done in conjunction with Stage 1 works. The extra sentence has been incorporated into the revised Condition 23 noted in the assessment report above.

Condition 26 – Erosion and sedimentation control

This condition is not directed at individual lots and therefore no amendment is considered necessary.

Condition 27 – Section 68 for water, sewer or drainage connections

Council's Development Engineer has noted that Condition 27 is considered satisfactory in its current form. No modification is considered necessary.

Condition 34 – Section 68 for public sewer infrastructure

Council's Development Engineer has noted that Condition 34 is considered satisfactory in its current form. No modification is considered necessary.

Condition 35 – two (2) water connections

Condition 35 currently reads as follows:

35. *The applicant is invited to submit an application for two (2) water connections for the site, to accord with the future subdivision proposal over the site.*

Council's Development Engineer has recommended a modification to Condition 35, noting that although not requested for review, this condition warrants minor modification. The word "invited" is to be changed to "required".

The following modification to Condition 35 is proposed (amendments shown in bold):

- 35A. *The applicant is **invited required** to submit an application for two (2) water connections for the site, to accord with the future subdivision proposal over the site.*

Condition 37 – Site management plan

Council's Development Engineer has recommended a modification to Condition 37, with regard to staging.

Condition 37 currently reads as follows:

37. *Prior to the Construction Certificate being issued, a Site Management Plan for the ongoing use and management of the entire site shall be prepared and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include but is not limited to the management of mechanical plant and associated equipment, management of the Playland area, proposed site security including management of patrons and antisocial behaviour, monitoring and management of litter, trolley management, coordination of refuse collection vehicles and delivery vehicles to avoid potential traffic conflict and general site management.*

The approved Site Management Plan shall be kept onsite and implemented upon commencement of operations.

The following modification to Condition 37 is proposed (amendments shown in bold):

- 37A. *Prior to ~~the a~~ **a** Construction Certificate being issued **for either stage of the development**, a Site Management Plan for the ongoing use and management of **that stage, including measures for compatibility with the Site Management Plan for the other stage, ~~the entire site~~** shall be prepared and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include but is not limited to the management of mechanical plant and associated equipment, management of the Playland area, proposed site security including management of patrons and antisocial behaviour, monitoring and management of litter, trolley management,*

coordination of refuse collection vehicles and delivery vehicles to avoid potential traffic conflict and general site management.

The approved Site Management Plan shall be kept onsite and implemented upon commencement of operations.

Condition 46 - Fill / TRCP / haul route

Although not requested for review, Council's Development Engineer has recommended that this condition be modified to better address the timing of payment.

Condition 46 currently reads as:

46. *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.

The following modification to Condition 46 is proposed (amendments shown in bold):

46A. *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 a construction certificate or Section 68 sewer infrastructure construction application.***

Condition 62 – Earthworks as per AS3798

Council's Development Engineer has recommended that this condition be modified.

Condition 62 currently reads as follows:

62. *Proposed earthworks shall be carried out in accordance with AS3798, "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 AS3798. 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.

The following modification to Condition 62 is proposed (amendments shown in bold):

62A. *Proposed earthworks shall be carried out in accordance with AS3798, "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 AS3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to:

- a) Tweed Shire Council in conjunction with sewer infrastructure construction works (that require site filling) as per separate Section 68 approval.**
- b) The Principal Certifying Authority upon completion.**

Condition 77 - S138 'satisfactory inspection report'

Although not requested for review, Council's Development Engineer has recommended this condition be modified in terms of a minor clarification regarding "timing".

Condition 77 currently reads as follows:

77. 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.

The following modification to Condition 77 is proposed (amendments shown in bold):

*77A. During construction **of the initial stage of the development**, 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.*

Condition 84 – Water quality for any site discharges

Council's Development Engineer has noted that Condition 84 does not require modification.

Condition 95 – Defect liability bond

Council's Development Engineer has noted the following:

"Although this security bond is more relevant to be associated with the Subdivision Certificate, this condition is still considered satisfactory as is. The separate DA submission for the subdivision (DA12/0113) will include a similar requirement."

(c) Suitability of the site for the development

The applicant has addressed Council's original concerns by way of providing a revised design, which is currently being assessed under a separate deferred commencement assessment. The proposed modifications are generally compliant with all relevant policies applicable to such a development. As such, the proposed development is considered suitable for the subject site, subject to conditions of consent.

CONSIDERATIONS UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

- “(a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations.”*

Likely Environmental Impact

An extensive assessment has been undertaken with regard to the proposed modifications to the approved mixed use development, as noted in the 79C assessment above.

In conclusion, the proposed amendments that have been supported are not considered to result in any significant environmental impact, subject to appropriate conditions of consent.

Substantially the Same Development

The proposed modifications result in essentially the same development as originally approved, with the proposed amendments considered unlikely to result in any significant changes to the external appearance of the originally approved development. There are no new uses proposed and no additional parcels of land. As such, the proposed modifications are considered to be substantially the same development as that originally approved.

Consideration of Submissions

The application was placed an exhibition for 14 days. During this time, eight (8) written submission were received.

The following table lists the issues raised by the submissions and provides comment to each issue.

ISSUE	RESPONSE
<p>Concern is raised about both the visual and noise impacts of the development on the northern side of the river, including Tumbulgum Road and surrounding hills.</p>	<p>The applicant has noted the following:</p> <p><i>"Since the Deferred Commencement Consent was issued, the extent of lighting has decreased in order to address concerns raised by Council. This includes the reduction of both pylon signs to 5 metres, as well as reducing the number of illuminated wall signs, which will result in simultaneously lessen lighting impacts whilst maintaining compliance with AS4282.</i></p> <p><i>Importantly, the only McDonald's signage lighting that directly faces Tweed River is a small 'McCafe' and 'M' sign. The larger 'McDonald's' and pylon sign face east/west away from the River. Whilst the number of IGA signs will remain the same, these nonetheless comply with AS4282 and meet all relevant Council standards.</i></p> <p><i>Furthermore, all signs will be partially shielded over time due to the establishment of trees along the site frontage (as per the Landscape Intent Plans) and along the river side of Tweed Valley</i></p>

ISSUE	RESPONSE
	<p><i>Way (as requested by resident submissions, and by Council on 06 June 2012)."</i></p> <p>It should be noted that Council staff do not support the majority of the proposed modifications to the conditions relating to potential lighting and noise impact. The only proposed modification being supported is the deletion of Condition 3. Council's Environmental Health Unit considers that installation of lighting shielding is more likely to be used as an ameliorative measure to address lighting conflicts, rather than changing lighting intensity. Any complaints relating to lighting conflicts would be assessed against an appropriate standard, such as AS 4282 <i>Control of the obtrusive effects of outdoor lighting</i>. If non-compliance with the appropriate standard is identified, the onus would be on the applicant/occupant to address the matter.</p>
<p>Seek the inclusion of a condition requiring extensive planting of advanced large natives trees along the riverbank (prior to the commencement of works), sufficient to mask the development from the river and surrounding areas and provide some degree of noise attenuation.</p>	<p>As noted within the body of this report, the applicant was happy to provide additional landscaping along the river side of Tweed Valley Way. Unfortunately, constraints of the site, plant species, and management issues have resulted in the applicant advising that they will not be proceeding with the additional landscaping. In any case, it should be noted that the noise attenuation would not have been achievable by landscaping the river side of the roadway, given the limited width of the embankment (room for single line of trees only). It should be noted that the applicant's request to modify conditions in relation to noise have not been supported.</p>
<p>Residents on Tumbulgum Road have to tolerate: traffic noise from Tweed Valley Way; noise from customers at the three service stations morning and night; and noise from the Riverside Tavern (music on Friday and Sunday nights reverberates through windows and doors and wakes residents). Residents will not tolerate the lighting and additional noise that will be generated by this development. Lighting spills across into our kitchen and bedrooms now with the industrial lighting. The DA must uphold the lighting restrictions and hooded bulbs to prevent lighting from spilling beyond its desired purpose. The McDonald's sign must remain below 5m and be dimmed before 7pm for the convenience of residents.</p>	<p>As noted above, the applicant has reduced the size of the pylon signs and reduced the number of signs overall. Additional landscaping is also proposed. Nevertheless, Council staff do not support the majority of the proposed modifications to the conditions relating to potential lighting and noise impact.</p>
<p>The noise travels tremendously across water. We strongly object to any changes to air conditioning positioning to benefit the owners. The original DA used a noise study that suggested residents 250m from the source of noise would not be affected. I challenge this as we are well within 250m of McDonalds and IGA and the sound will travel into our homes due to the body of water between us.</p>	<p>Council staff do not support the proposed modifications to the conditions relating to noise impact.</p>

ISSUE	RESPONSE
We object to constant smells and odours coming from McDonald's 24 hours.	Council staff do not support the proposed modifications to the conditions relating to amenity impact.
We insist that Council planners consider adding to the response to the DA amendments that McDonald's / IGA fund the sound / lighting barrier to be erected on the opposite roadside to the establishment for the protection from the residents of Tumbulgum Road.	A sound / lighting barrier on the river side of Tweed Valley Way is not considered to be appropriate in this instance. As noted within the body of this report, the applicant was happy to provide additional landscaping along the river side of Tweed Valley Way. Unfortunately, constraints of the site, plant species, and management issues have resulted in the applicant advising that they will not be proceeding with the additional landscaping. It should be noted that the majority of the applicant's request to modify conditions in relation to lighting and noise have not been supported.
We are owners of property immediately across the river from the proposed redevelopment. Whilst we are not opposed to the redevelopment in principle we are extremely concerned about both the visual and noise impacts this development will have on the northern side of the river.	As noted above, Council staff has opposed the majority of the proposed deletion / modification of conditions relating to noise / lighting.
The issue of potential impacts experienced by residents north of the Tweed River looking back across the river particularly at night has not been appropriately addressed or understood in this request for amendments.	This issue has been adequately addressed above.
The most effective and aesthetically pleasing means of mitigating the impact of the proposed development upon the northern side is to provide a screen of trees planted on the riverside of the road. Without a dense landscape screen, the proposed development will be constantly in the night time outlook from the properties on the northern side of the river.	As noted above, the applicant was happy to provide additional landscaping along the river side of Tweed Valley Way. Unfortunately, constraints of the site, plant species, and management issues have resulted in the applicant advising that they will not be proceeding with the additional landscaping. It should be noted that the majority of the applicant's request to modify conditions in relation to lighting and noise have not been supported.
If the proposed development goes ahead, the riverbank side of Tweed Valley Way should be planted completely out with native rainforest trees to provide a to help stabilise the riverbank and provide some much needed acoustic and visual barrier.	See comments above.
I have attached photos – note that the photos of the lights coming across the river in no way show how bright they are – they were taken without a flash. The lights from the service stations and Victory Ford are on constantly – all night. They light our house enough that we do not need lighting to get ready for bed. This lighting is on an angle from our home. McDonald's is going to be directly across from our home (and more importantly directly across from our bedroom).	This issue has been adequately addressed above.

ISSUE	RESPONSE
Noise travels across water. We can honestly hear people talking from across the river. We hear the beeping of the tyre air guage at the Caltex and the man on the microphone taking to the customers at the petrol bowsers. Can you imagine what the noise will be like for us to hear every drive through hamburger order? Please ensure the developer complies with all of the conditions.	Council staff do not support the proposed modifications to the conditions relating to noise impact.
I request urgently that quick growing trees be planted along the roadway, on the river side of Tweed Valley Way. This will help with noise and lighting issues.	This issue has been adequately addressed above.
Condition 3 Signage Lighting – I believe Council was acting in the interests of the residents and rate-payers when making this condition. The requirement for the development to have devices which reduce glare of the lighting of signage should remain.	Council staff do not support the majority of the proposed modifications to the conditions relating to lighting impact.
Condition 12 Car Parking - I believe this amendment does not provide sufficient information for effective decision making to occur. In particular I am concerned that appropriate disabled parking and safety issues are not addressed in detail.	Council's Development Engineer has opposed the deletion of Condition 12. An appropriate amendment has been proposed, requiring the provision of adequate details for each stage, which will ensure parking and safety issues are addressed.
Condition 23 Bus Shelter – My understanding of this condition being put in place was to ensure the safe access / alighting for bus passengers and efficient thoroughfare for traffic along Tweed Valley Way. I am concerned the move to put the bus shelter on the road reserve will compromise these important safety issues.	Council's Engineers have assessed the proposed relocation of the bus shelter within the road reserve and have determined that adequate width is available to ensure the safety of the bus passengers. Applicable conditions of consent have been applied.

Public interest

Despite the number of submissions, the proposed modifications to Development Consent DA11/0476 which are being supported are considered to be acceptable in terms of public interest. The proposed modifications are not considered to result in a significant negative impact upon the surrounding area, subject to the recommended conditions of consent.

OPTIONS:

1. Approve the proposed modifications, subject to the recommended conditions of consent; or
2. Refuse the proposed modifications; or
3. Approve the proposed modifications as proposed by the applicant.

CONCLUSION:

This assessment has had regard for all of the issues raised by the submissions, and has taken into consideration what conditions of consent Council has applied to other commercial activities. As a result, the proposed modifications which are being supported are considered to be acceptable and it is considered that the proposal warrants approval, subject to the recommended amendments to Development Consent DA11/0476.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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16 [PR-CM] Response to Notice of Motion from 20 March 2012 - Historic Commercial Uses of the Tweed River

SUBMITTED BY: Development Assessment



Civic Leadership

SUMMARY OF REPORT:

In response to a Notice of Motion from the Council meeting of 20 March 2012 it was resolved:

".. that the General Manager investigates and reports back to Council on what business vessels are still operating on the Tweed River, as supplied in attachment form to Item 10 of the Ordinary Meeting held 21 February 2012, given the overview statement made to the attachment as follows:

"Other development applications previously assessed for commercial operations on the Tweed River that may have relevance to the current proposal include the following. Most of the applications were lodged for continuation of businesses following compliance action and as a result of the Council resolution of 6 December 2000 that sought development applications within 40 days from all commercial boating operators that did not have a current consent."

Following a recent review of previous Council development approvals, half of the original applications for commercial ventures on the Tweed River are still operational.

RECOMMENDATION:

That the report on the response to Notice of Motion from the Council meeting held 20 March 2012 relating to Historic Commercial Uses of the Tweed River be received and noted.

REPORT:

Attachment A identifies the 26 development applications previously assessed for commercial boating operations on the Tweed River. These applications have now been reviewed to determine their current status and can be summarised as follows:

- **'One off' events – x2**
There were two temporary race meetings held in 1999. (K98/0496 & K99/0301).
- **Withdrawn or refused– x3**
There were two operations which were withdrawn. (0065/2001PTV and 0071/2002DA) and one amendment refused (1039/2001DA.01).
- **Ceased – x8**
There were eight operations which have since terminated for a variety of reasons. (1030/2001DA, 1039/2001DA.02, 0332/2002DA, DA02/0383, DA02/0405, DA03/1142, DA07/0974 & DA08/0931).
- **Still operational – x13**
Of the 26 development applications originally lodged (and mostly approved), 13 of the ventures remain operational today. Some of these involve a single weekly trip e.g. a fishing charter which simply passes through the entrance for an ocean voyage, through to daily trips along the Tweed River e.g. BBQ pontoons or river cruises. Investigations reveal there has been no real growth in the level of activity over the last decade possibly due to flat trends in tourism or restricted wharfing facilities. Feedback from operators suggests that bookings are down and their operations only just commercially viable. There does not appear to be any demonstrable increase in activity on the Tweed River but rather a reasonably static level of commercial boating. (1039/2001DA, 0130/2002DA, 0193/2002DA, 0194/2002DA, 0196/2002DA, 0348/2002DA, DA02/0404, DA02/0407, DA02/1065, DA02/1238, DA02/2011, DA02/1615, DA08/0296).

OPTIONS:

Not applicable.

CONCLUSION:

Half of the original applications for commercial ventures on the Tweed River are still operational.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 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:

- 1. Attachment A - Historic Commercial Uses of the Tweed River (ECM 50244934)
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17 [PR-CM] Area E, Terranora - Interpretation of Clause 53D of the Tweed Local Environmental Plan 2000 & Altitude Aspire - Status Update

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA09/0701, GT1/DCP/B24, GT1/LEP/2000/10



Civic Leadership

SUMMARY OF REPORT:

Area E has been recognised in recent decades by both Tweed Shire Council (TSC) 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.

To enable future development of the site, Council has progressed:

- A Local Environmental Study (LES) and a subsequent amendment to the Tweed LEP 2000 (Amendment No. 10 approved 26 October 2007). This resulted in the site being rezoned and an enabling Clause inserted into the Tweed LEP 2000 (Clause 53D);
- A site specific Draft Tweed Development Control Plan (DCP) – Draft Tweed DCP Section B24 – Area E Urban Release Development Code; and
- A Draft Section 94 Contribution Plan (CP) No. 31 Terranora Area E to provide funding for infrastructure required to facilitate the development of Area E Terranora as described in draft Development Control Plan Section B24 – Area E Urban Release Development Code (DCP-B24).

In parallel to Council's process, DP&I is currently considering, as the consent authority, a 272 lot community title (Torrens) subdivision (amended Altitude Aspire) within the eastern portion of Area E, under the savings provisions of Part 3A of the Environmental Planning and Assessment Act 1979.

The Draft Tweed DCP Section B24 – Area E Urban Release Development Code was endorsed by Council on 13 December 2011 however public notice of the plan being made is not to occur until an appropriate framework of Developer Contributions is achieved and in place.

In this regard the Draft Section 94 CP No. 31 was abandoned on 13 December 2011 as there was little prospect of it being approved in a timeframe that could facilitate funding of infrastructure for the Part 3A application of "Altitude Aspire". Also given the level of objections by landowners, there was little prospect of obtaining support from the landowners

in an application to the Minister to approve exceeding the Section 94 cap of \$30,000 per dwelling or subdivision allotment.

Discussions were therefore held with the proponents of "Altitude Aspire" and it was concluded that the most likely method of enabling their project to proceed would be by way of a Voluntary Planning Agreement (VPA) with Draft Section 94 CP No. 31 being used as the basis of negotiations.

This report will provide a brief summary of the status of the VPA discussions between Council and the applicant for "Altitude Aspire".

Council is also in receipt of two (2) additional requests for works within the mapped boundary of Area E (as shown on the below map).

The first indicates that an owner wishes to demolish one (of two) of the existing dwellings on a property and replace it with a new dwelling house.

The second indicates that the proponents for "Altitude Aspire" wish to obtain development consent for a temporary sales office.

The applicant's consultant on these matters has expressed concern that such developments may get caught by the Tweed LEP 2000 Clause 53D(3)(a) which states:

"(3) The consent authority must not consent to development on land to which this Clause applies unless it is satisfied that:

(a) A Development Control Plan has been prepared for the land."

This report seeks clarification from Council that Clause 53D(3)(a) is considered satisfied for minor works which do not affect the overall strategic objectives for Area E.

Such an interpretation would allow minor alterations and additions around the fringes of Area E to proceed subject to a merit consideration within a development application.

RECOMMENDATION:

That:

- 1. Council receives and notes the update on the Voluntary Planning Agreement discussions between Council and the applicant for the "Altitude Aspire" Part 3A development, Area E, Terranora; and**
- 2. Clause 53D(3)(a) of the Tweed Local Environmental Plan 2000 is considered satisfied for minor works which do not affect the overall strategic objectives for Area E, Terranora.**

REPORT:

Tweed Shire Council and Altitude Aspire (Newlands) Voluntary Planning Agreement Update

As detailed in the summary, discussions were held with the proponents of "Altitude Aspire" and it was concluded that the most likely method of enabling their project to proceed would be by way of a Voluntary Planning Agreement (VPA) with Draft Section 94 CP No. 31 being used as the basis of negotiations.

Accordingly the proponents for Altitude Aspire submitted a Draft Voluntary Planning Agreement in January 2012 for further discussion with Council officers.

The Draft VPA has generally been formed by utilising the principles established in the Draft Section 94 CP No. 31, and has canvassed the following issues:

- Road infrastructure (including Broadwater Parkway and its intersection with Fraser Drive);
- Water supply;
- Sewer infrastructure;
- Stormwater drainage and flood mitigation infrastructure;
- Wetland acquisition and rehabilitation;
- Casual (passive) public open space;
- Structured public open space; and
- Altitude Aspires obligations under the shire wide Section 94 contribution plans and Section 64 charges for water and sewer.

The drafting of the VPA has recently been completed with both Council and Newlands being predominantly satisfied with the principles contained in the VPA. The document has been forwarded to Council's solicitors for review and official feedback on the legality and readability of the document.

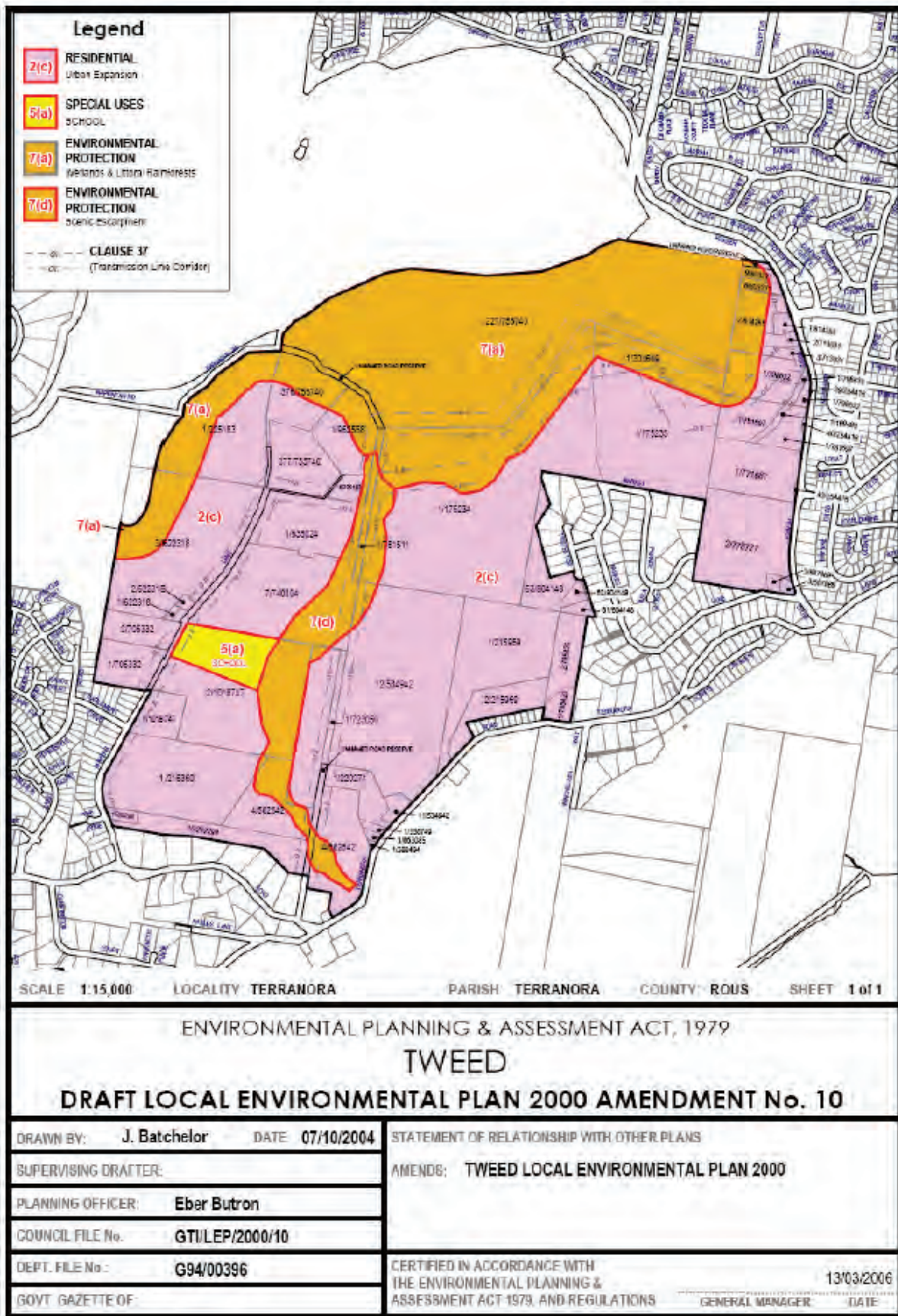
Discussions with the proponent and the DP&I have indicated that the VPA (once reviewed by the lawyers) will be placed on public exhibition concurrently with the Preferred Project Report (PPR) for Altitude Aspire. Such exhibition is considered crucial to enable other landholders within Area E to review the proposed mechanisms that would enable Altitude Aspire to proceed.

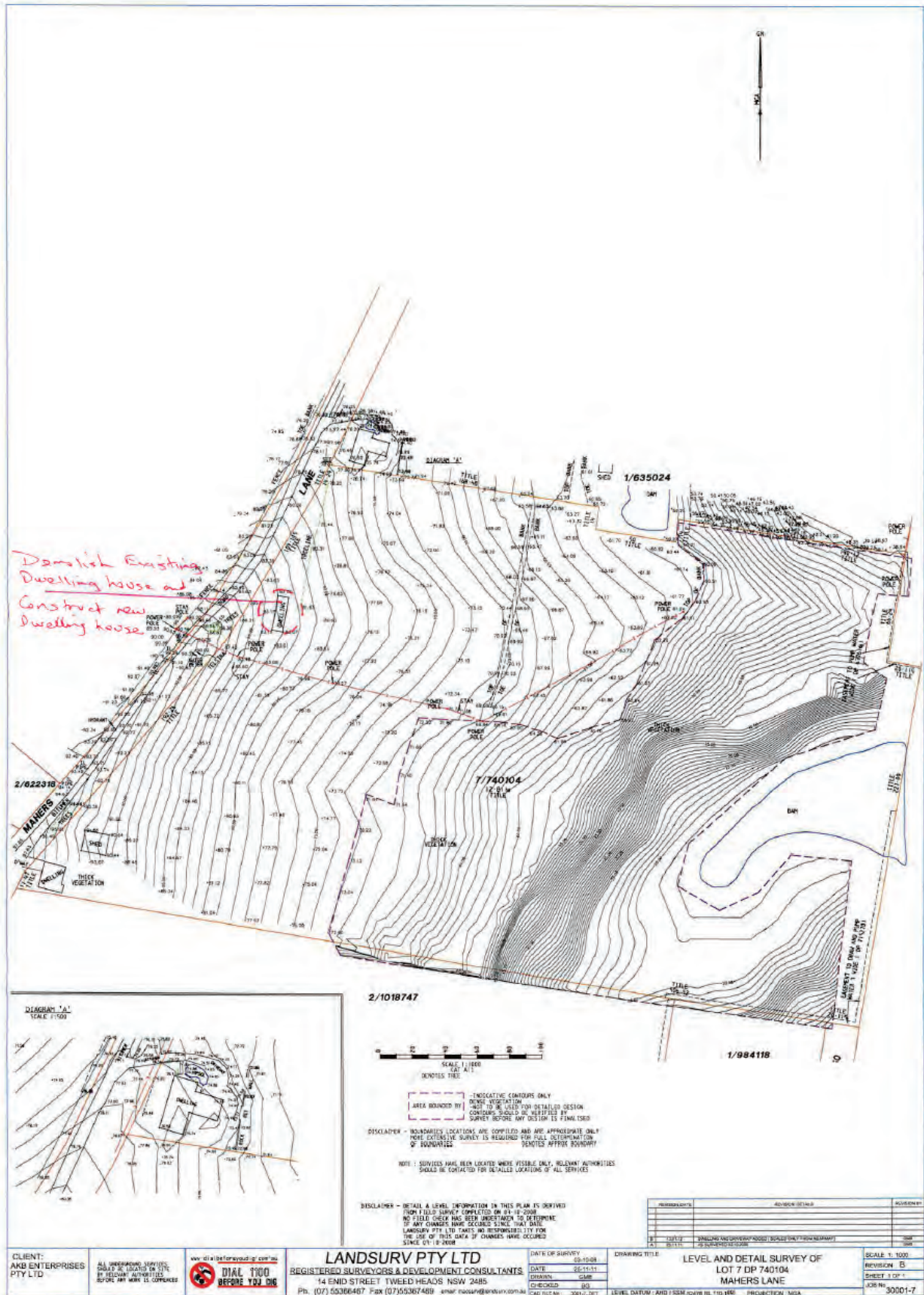
Additional requests for works within the mapped boundary of Area E

As detailed in the above summary, Council is in receipt of two (2) additional requests for works within the mapped boundary of Area E (as shown on the following map).

The first indicates that an owner wishes to demolish one (of two) of the existing dwellings on a property and replace it with a new dwelling house. The subject site is Lot 7 in DP 740104, Mahers Lane, Terranora. The site is currently zoned part 2(c) Urban Expansion and part 7(d) Environmental Protection (Scenic Escarpment). The below diagrams shows the approximate location of the proposed house and the proposed house having regard to the indicative structure plan contained within Draft Tweed DCP Section B24 – Area E Urban Release Development Code.

AREA E Map:





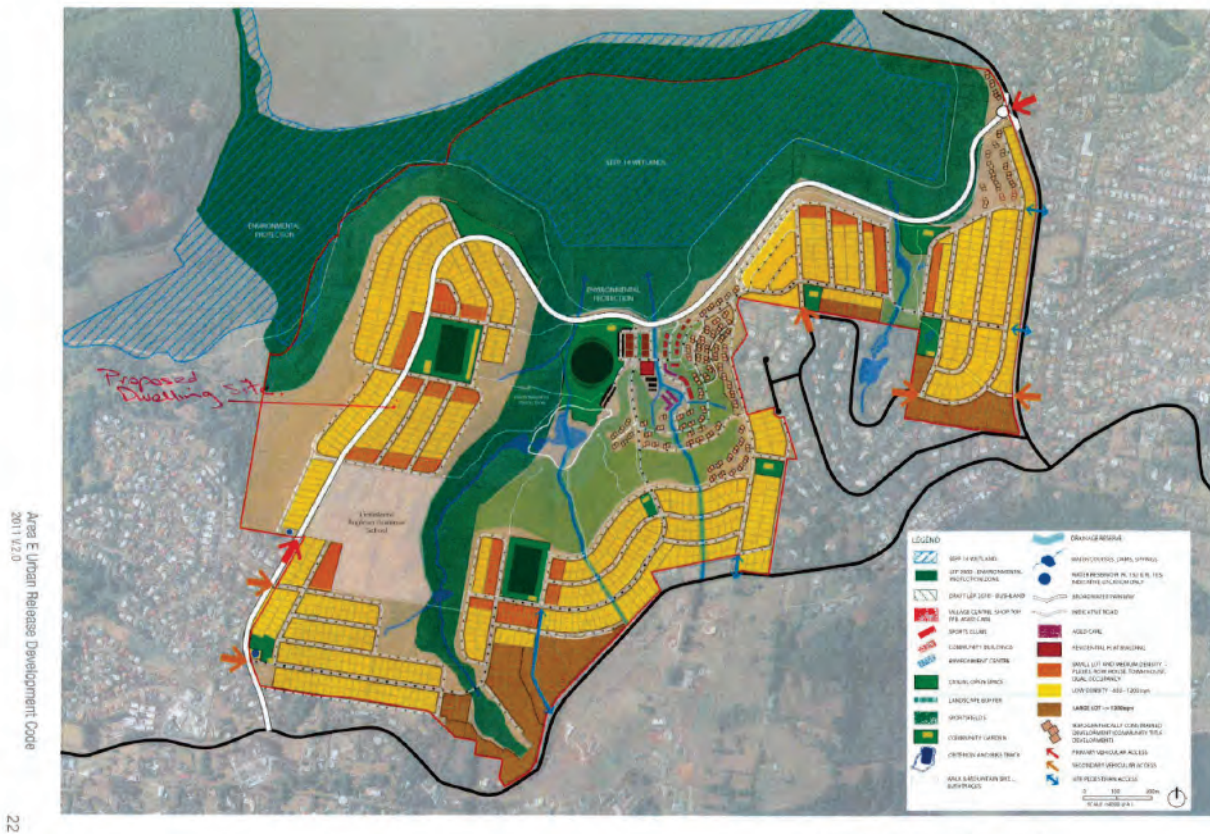


Figure 2.2- Indicative Structure Plan

The second request indicates that the proponents for “Altitude Aspire” wish to obtain development consent for a temporary sales office.

The applicant proposes to lodge a development application for a temporary Sales Office to be located on or adjacent to the existing pad comprising the corrugated iron agricultural shed on Fraser Drive. It will be a prefabricated building with access off Fraser Drive and will contain suitable staff and customer parking. A chemical toilet will be provided and power only will be connected.

The applicant’s consultant on these matters has expressed concern that such developments may get caught by the Tweed LEP 2000 Clause 53D(3)(a) which states:

“(3) *The consent authority must not consent to development on land to which this Clause applies unless it is satisfied that:*

(a) *A Development Control Plan has been prepared for the land.”*

The Draft Tweed DCP Section B24 – Area E Urban Release Development Code was endorsed by Council on 13 December 2011 however public notice of the plan being made is not to occur until an appropriate framework of Developer Contributions is achieved and in place.

In this regard the Draft Section 94 CP No. 31 was abandoned on 13 December 2011 as there was little prospect of it being approved in a timeframe that could facilitate funding of infrastructure for the Part 3A application of “Altitude Aspire”. Also given the level of objections by landowners, there was little prospect of obtaining support from the landowners

in an application to the Minister to approve exceeding the Section 94 cap of \$30,000 per dwelling or subdivision allotment.

A notice was published in the Tweed Link on 20 December 2011 advising that Section B24 will not take effect until 1 October 2012. However, the advertisement states that should a contributions framework be/not be endorsed by this date, Council may resolve to bring forward/delay the Code's taking effect.

Upon review of these two (2) minor applications, it is Council Officers' view that such minor applications have no real bearing on the strategic outcomes envisaged as a result of Draft Tweed DCP Section B24 – Area E Urban Release Development Code. Accordingly it is concluded that Clause 53D(3)(a) is not an impediment to approval of a development application for minor works on the fringe of the mapped Area E site.

Such an interpretation would allow minor alterations and additions around the fringes of Area E to proceed subject to a merit consideration within any required development application.

OPTIONS:

1. Council receives and notes the update on the Voluntary Planning Agreement discussions between Council and the applicant for “Altitude Aspire”; and
2. That Clause 53D(3)(a) of the Tweed LEP 2000 is considered satisfied for minor works which do not affect the overall strategic objectives for Area E, Terranora.

OR

1. Council receives and notes the update on the Voluntary Planning Agreement discussions between Council and the applicant for “Altitude Aspire”; and
2. That Clause 53D(3)(a) of the Tweed LEP 2000 is not considered satisfied for minor works which do not affect the overall strategic objectives for Area E, Terranora.

CONCLUSION:

This report has not canvassed the merit considerations associated with the VPA, the major project application or the minor works proposed on the fringe of Area E. The purpose of this report is to keep Councillors and the general public aware of progress on these matters and to seek endorsement on the method of handling minor applications.

The merits of each of these matters will be covered in more detail during the assessment of individual development applications and when official exhibition occurs through the Department of Planning and Infrastructure for the major project and VPA.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable at this stage as the matter has been forwarded to solicitors seeking their opinion.

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
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

18 [PR-CM] Seaside City Proposed Development Control Plan Amendment and Development Application

SUBMITTED BY: Development Assessment



Civic Leadership

SUMMARY OF REPORT:

On 10 May 2012 Council received correspondence from Planit Consulting on behalf of Richtech Pty Ltd in regards to Seaside City.

The first set of correspondence comprises a request to amend Tweed Development Control Plan (Tweed DCP) Section B11 – Seaside City. The proposed changes include:

- The removal of the mandatory tourist accommodation component within the central core area;
- The removal of “minimum density” designations from all accommodation areas within the DCP (including land owned by individuals other than Richtech Pty Ltd);
- Increasing the extent of low density housing areas by re-nominating areas to the “Coastal Housing” designation in accord with the Tweed DCP.
- Modifying the type of medium density housing adjacent to the village core (lands within Richtech ownership only) so as to facilitate ‘Courtyard Housing’;
- Concurrently amending the S94 Plan No. 28 Seaside City and the Voluntary Planning Agreement (VPA) between Council and Richtech Pty Ltd as necessary.

The applicant has stated that the proposed DCP amendment is in direct response to the financial pressures currently being experienced. Planit Consulting has stated that a significant outlay for civil works coupled with market conditions has necessitated urgent action by Richtech Pty Ltd.

The second set of correspondence comprises a development application seeking approval for 33 existing allotments to be re-subdivided to create a total of 50 residential allotments.

The proposed 50 allotments vary in size between 503m² to 1304m².

The existing Tweed DCP states that allotments in this area should comprise a combination of 2 storey coastal dwellings, 2 storey coastal multi dwelling housing, 3 storey coastal units, and 3 storey tourist accommodation (medium density tourist accommodation only).

The proposed development application seeks approval to create 48 low density coastal housing allotments (1/450m²) and 2 coastal multi dwelling allotments (1/220m²).

The development application clearly complies with the proposed changes to the Tweed DCP but not the current Tweed DCP Section B11 - Seaside City.

The purpose of this report is to:

1. Establish whether Council wants to pursue an amendment to Tweed DCP Section B11- Seaside City (this will have budget and resource implications); and
2. Establish whether Council should accept lodgement of the proposed development application prior to any amendment to the current Tweed DCP.

RECOMMENDATION:

That Council endorses one (1) of the following two (2) options:

Option A

1. Council informs the proponent that the requested Development Control Plan amendment does not form part of the Planning Reform Unit's 2012/2013 Work Program, however will be considered when formulating the 2013/2014 Work Program; and
2. Council returns the proposed development application (Seaside City) until an amended Tweed Development Control Plan Section B11 has been endorsed by Council.

OR

Option B

1. The Director of Planning and Regulation provides a further report to Council detailing the Planning Reform Unit's 2012/2013 Work Program with the view of including the requested Development Control Plan amendment; and
2. Council returns the proposed development application (Seaside City) until an amended Tweed Development Control Plan Section B11 has been endorsed by Council.

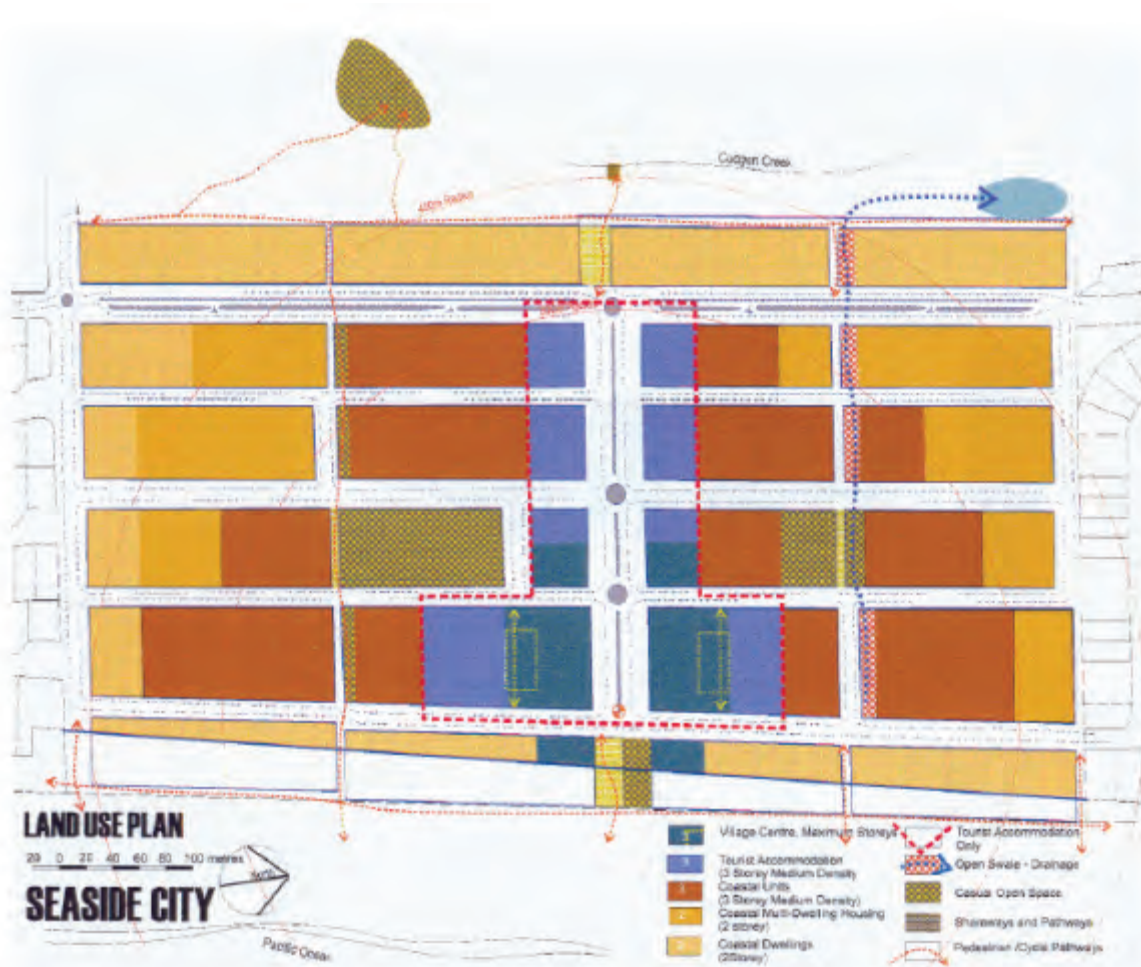
REPORT:

Seaside City has a long history dating back to the 1920's when the subdivision was originally created. More recently it has become the subject of a revitalisation development by way of three (3) primary development consents being DA05/0775, DA05/0793 and DA05/1464 which all approved the carrying out of works for the purposes of land clearing, earthworks, construction of roads and other services in preparation of the further development of the existing lots.

Concurrent to the consideration of the above development applications a site specific DCP and site specific Section 94 Plan were created in relation to the Seaside City Development and is Section B11 to the Tweed Shire Development Control Plan and Section 94 Plan No. 28. Additionally, Council entered into a Voluntary Planning Agreement with Richtech to enable Richtech to recoup infrastructure costs from those properties within the estate not owned by Richtech.

The subject site is zoned 2(e) Residential Tourist pursuant to the Tweed Local Environmental Plan 2000 (TLEP 2000) and is adjacent to land that is zoned 7(l) Environmental Protection (Habitat) bordering on the banks of the nearby Cudgen Creek to the west, and adjacent to land that is zoned 7(f) Environmental Protection (Coastal Lands) bordering the sand dunes to the east.

Seaside City is proposed under Section B11 of the Tweed DCP (current version) to be a coastal, residential village with a variety of residential types ranging from coastal dwellings to village centre tourist and residential living. The centre of this village is proposed to have a central shopping precinct. The structure plan is shown below:



The above structure plan shows a proposed combination of housing and land use types including:

- 2 storey coastal dwellings
- 2 storey coastal multi dwelling housing
- 3 storey coastal units
- 3 storey tourist accommodation (medium density tourist accommodation only)
- 3 storey village centre

The higher density tourist and village centre areas are focused along the central road "Ocean Ave" with densities tapering out to lower densities on the peripheries of the site adjoining Casuarina to the south, Salt to the north, and Cudgen Creek to the west.

The Proposed Amendment to Tweed DCP Section B11 – Seaside City

The applicant has made the following submission in regards to the proposed amendment:

"Pursuant to Section 74C of the Environmental Planning and Assessment Act (EP&A) 1979 we write to formally request Council amend Section B11 – Seaside City of the Tweed Development Control Plan (DCP) 2008. The following outlines the proposed changes and is considered to demonstrate a need to 'make' a DCP in order to meet the requirements of an environmental planning instrument applying to the site. In this regard, making a DCP to amend the current plan is considered necessary to meet the

objectives of the EP&A Act 1979 regarding the orderly and economic development of land.

This request to make a DCP to amend the existing Seaside City DCP is made concurrent with an application to subdivide the majority of the allotments fronting Casuarina Way. This request for an amendment to the DCP and proposed subdivision is driven by economic factors and marketing advices and represents the orderly and economic development of the land.

This proposal is in direct response to financial pressures being applied to our client. In this regard our client has provided significant financial outlay to undertake the civil works required to enable the seaside city allotments to be utilised for residential purposes. This process was undertaken after Council and the developer prepared and adopted a DCP for the area. This investment represented a significant outlay in order to facilitate pre-requisite infrastructure, however this investment, coupled with market conditions necessitates urgent action.

Since development of the DCP and carrying out of necessary infrastructure, financial situations have changed and the DCP now dictates densities and development types which are unrealistic and unachievable. The types of development prescribed by the DCP are such that securing buyers for the allotments or bank funding to develop the allotments is effectively impossible. The following amendments to the DCP are proposed to rectify this situation.

Council will note that given the multi owner structure, we have not suggested any amendments (with respect to densities and or designation other than the removal of the 'minimum density' references) to those lands not in the ownership of Richtech. Furthermore, the retention of the higher densities within these lands will maintain the objective of attaining a more intense level of development along the esplanade.

Justification

- The current DCP was prepared in extraordinary market conditions and the provision of significant levels of tourist only accommodation has proven unviable in both the adjoining developments of Salt and Casuarina. Examples of such problems are evident within peppers and mantra resorts within Salt. These tourist facilities have been subject to valuation write downs of up to 65%. Such markets conditions have effectively stifled development of Seaside for such development.
- The adopted Seaside S.94 plan largely provides for a vehicle in which Richtech P/L is reimbursed monies associated with the provision of pre requisite infrastructure (previously paid for by Richtech P/L). Importantly, the suggested DCP amendments do not lessen the densities achievable on those lands not in the ownership of Richtech P/L (other than to remove the minimum density requirement), it only impacts on those lands owned by Richtech P/L. Accordingly and as this request is being made on behalf of Richtech P/L, it would stand that whilst decreased densities will impact upon the amount of monies returned, Richtech is comfortable with such an arrangement in any event.
- The proposed amendment respects the overall intent for the structure of development within Seaside as it is currently promoted by the DCP. The structure of the proposed land use plan continues to 'step' development form

lower density on the fringe to higher density within the core. Further the proposal retains medium density development at the corner of Ocean Avenue and Casuarina Way, providing an entrance statement framed by density and a high standard of architecture. Finally the proposal retains the consolidation of medium density development along Cylinders Drive.

- The use of greater amounts of lower density 'Coastal Housing' provides for an improved interface with the adjoining lower density development within Salt and Casuarina. To demonstrate this, a Site Analysis looking at density within the directly adjoining areas within Salt and Casuarina and that now proposed along Casuarina Way at Seaside has been prepared. The proposal provides a density in keeping with that adjoining. This approach also replicates the urban design strategy currently employed within Salt and Casuarina which sees Casuarina Way lined with low density housing forms interspersed with medium density land marks leading to consolidated medium density central precincts.
- Development applications are systematically being lodged and generally being supported by Council within Casuarina. These applications have been lodged in response to current market conditions and have seen density reductions. The applications have been issued over what were identified as medium density allotments within the Casuarina master plan to be subdivided and utilised for low density housing. Prime examples include Lot 169 Casuarina Way and the Cotton Beach subdivision. Both of which have resulted in significant reduction in densities.
- This request will address the disconnect that the current DCP provides with regard to ensuring the orderly and economic development of the land in accord with Section 5 of the EP&A Act, 1979 (objects of the Act). Amendment of the DCP will see greater development options available and bring densities back to a realistic and achievable level allowing development to proceed in a timely and ordered manner. Pursuing development based on the current requirements of the DCP cannot be sustained economically.

Proposed Changes – Summary

The following points should be read in conjunction with the proposed Land Use Plan.

- i. Removal of the mandatory tourist accommodation component within the central core area (lands currently designated as Tourist Accommodation Area and Village Centre Accommodation (ref Fig. 20 & 21 of Section B11)). This represents prudent land use planning given the experiences within adjoining developments (Salt & Casuarina). The 'Tourist Accommodation' area will be re-nominated 'Village Centre Fringe' and will be utilised for permanent residential or tourist accommodation uses. The Village Centre Accommodation Area will remain but the requirement that residential uses in the area be for short-term only will be removed.
- ii. Removal of 'minimum density' designations from all accommodation areas within the DCP. This request is largely based on the disconnect that this requirement represents with the need to ensure the orderly and economic development of the land in accord with Section 5 of the EP&A Act, 1979 (objects of the Act). The removal of the 'minimum density' requirement does not preclude the attainment of the densities outlined; rather it removes the mandatory nature of the control which cannot be sustained economically.

- iii. *Increasing the extent of low density housing areas by re-nominating areas to the 'Coastal Housing' designation in accord with the DCP. This increase is solely restricted to those areas outside of the village core and has been located adjoining the existing low density housing areas within both Salt and Casuarina. This change is restricted to the lands located between Casuarina Way and Seaside Drive.*
- iv. *Modifying the type of medium density product adjacent to the village core (lands within Richtech ownership only) so as to facilitate 'Courtyard Housing'. These areas will be re-nominated as Coastal Multi-Dwelling Housing as opposed to Coastal Units. This alternative medium density product is also proposed at the entrance to Ocean Avenue upon the 1294.4m² and 1304.9m² lots depicted in Subdivision Plan (note these allotments are proposed as part of the subdivision currently before Council). These proposed lots will also be designated 'Coastal Multi-Dwelling Housing'.*

Importantly these areas will remain with frontage to designated open space areas and the proposed village core. The retention of medium density development at the entrance to Ocean Avenue maintains an entrance statement framing the entrance with density and a high standard of architecture as currently sought by the DCP. To demonstrate the intended development to Council the Architectural Concept Plan is provided.

- v. *Concurrent with the DCP amendment outlined above, will be a need to review and amend the Seaside S.94 Plan and potentially the VPA. In this regard it is noted that densities will be decreased from the theoretical figures outlined within the S.94 plan, however we would respectfully argue that a projected Tourist Population of 800 persons (within seaside) was and is not achievable in the first instance. A preliminary Comparative Analysis has been undertaken. This analysis shows a decrease in net residents from 1796 persons to 1211 persons.*

Specific DCP amendments

The following table provides a summary of the specific amendments proposed to the DCP to facilitate the above discussed changes.

Section	Proposed Changes
B11.1 Introduction	None – Keep Section
B11.1.1 The Vision & Principles	None – Keep Section
B11.1.2 Aims of this Section	None – Keep Section
B11.2 Administration	None – Keep Section
B11.2.1 Land to which this Section applies	None – Keep Section
B11.2.2 How does this Section relate to other Sections and Environmental Planning Instruments?	None – Keep Section
B11.2.3 Site & Context	None – Keep Section
B11.2.4 Planning Management	None – Keep Section
B11.2.5 Urban Structure & Form	<ul style="list-style-type: none"> • Replace Figure 7 – Structure Plan with a figure reflecting Proposed Land Use Plan.

Section	Proposed Changes
	<ul style="list-style-type: none"> • Amend Building Style & Design for Areas Outside of Village Centre – Building Design – Garages – paragraph 5 from ‘Garage doors and carports are to be no greater than 25% of the frontage of the property so as not to dominate the street frontage of the building’ to ‘Garages and carports are to comply with the relevant part of Section A1 – Tourist and Residential Development Code’ • Amend Building Style & Design for Areas Outside of Village Centre – Building Height – paragraph 3. Delete reference to Development Control Plan 48 – Tweed Coast Building Heights. DCP has been repealed. • Amend Building Style & Design for Areas Outside of Village Centre – Deep Soil Zones – paragraph 2 from ‘the deep soil zones in Seaside City are to consist of a 3 metre setback of 75% of the frontage’ to ‘Deep soil zone are to comply with the relevant part of Section A1 – Tourist and Residential Development Code’ • Amend Building Style & Design for Areas Outside of Village Centre – Setbacks – Rear: from ‘The backyard with a minimum dimension of 6m is to be provided for each development. The building set-backs to the rear of a dwelling abutting another dwelling is to terrace back in accordance with the building envelope. The building setbacks to the rear of a dwelling abutting open space can be built to the 6m set-back line.’ to ‘A backyard with a minimum depth of 6m is to be provided for each development’.
<p>B11.2.6 Building Controls Accommodation Area</p>	<ul style="list-style-type: none"> • Replace Figure 14 – Accommodation Types with a new figure a reflecting Proposed Land Use Plan. • Amend Table 1 – Built Form Controls removing the minimum number of units/m2 of full site area control from the density column. • Replace Coastal Housing Figure 15 with a new figure reflecting Proposed Land Use Plan. • Amend Lorna Street South/East – specific requirements, replace Figure 16 with a new figure reflective of the proposed land use plan under attachment A. • Replace Coastal Multi-Dwelling Housing Figure 18 with a figure reflecting Proposed Land Use Plan. • Amend Coastal Multi-Dwelling Housing – Density. Delete Minimum density requirement. • Replace Coastal Units Figure 19 with a figure reflecting Proposed Land Use Plan. • Amend Coastal Units – Density. Delete Minimum density requirement. • Rename ‘Tourist Accommodation Area’ to Village

Section	Proposed Changes
	<p><i>Centre Fringe.</i></p> <ul style="list-style-type: none"> • <i>Replace Tourist Accommodation Area Figure 20 with a figure reflecting Proposed Land Use Plan.</i> • <i>Amend Tourist Accommodation – Density. Delete minimum density requirement.</i> • <i>Amend Village Centre Accommodation – paragraph 2 from ‘To reduce the conflict between residents and other uses such as restaurants and cafes the residential uses are provided for short-term use only’ to ‘To reduce the conflict between residents and other uses such as restaurants and cafes the residential uses are provided for a mixture of short-term and long-term uses’</i>
<i>B11.2.7 Bibliography</i>	<i>None – Keep Section."</i>



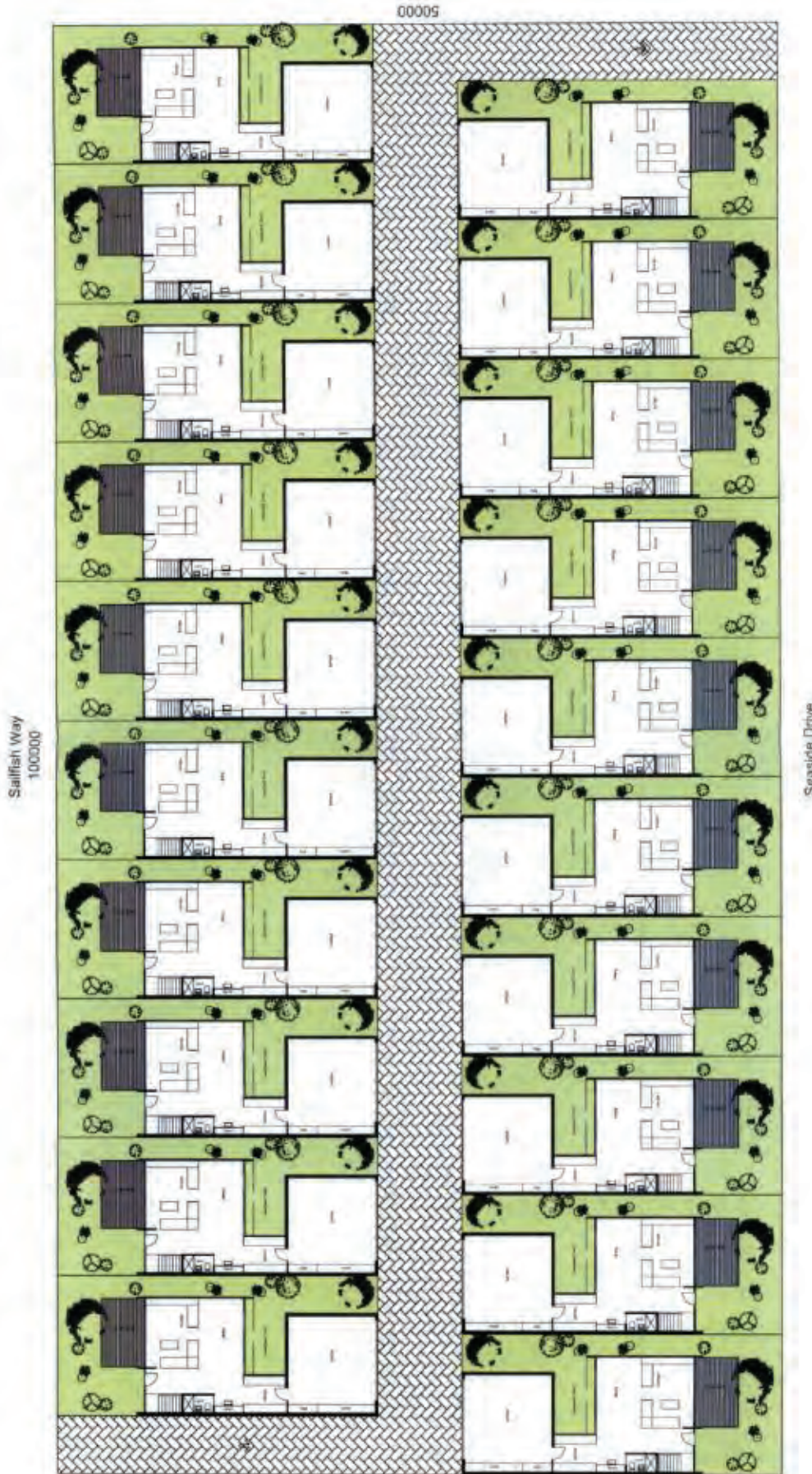
1. AREA OF SEASIDE CITY LAND - 204 LOTS = 23.97ha VIA RE-SURVEY (23.94ha VIA DP114895)
 - LOT 1971 IN DP133919 = 9.6ha
 TOTAL = 33.6ha
2. AREA OF LAND TO BE DEDICATED - ROAD WIDENINGS = 2.4ha
 - PUBLIC RESERVE = 1.5ha
 - LOT 1971 IN DP133919 = 9.6ha
 TOTAL = 13.5ha
3. AREA OF SALEABLE LAND = 20.1ha
4. AREA OF SALEABLE LAND OWNED BY RICHTECH PTY LTD = 16.6ha

- DENOTES LAND PROPOSED TO BE DEDICATED AS PUBLIC ROAD
- DENOTES LAND PROPOSED TO BE DEDICATED AS PUBLIC RESERVE
- DENOTES LAND OWNED BY OTHERS (NO CHANGE FROM EXISTING SEASIDE DCP)
- DENOTES PROPOSED DRAINAGE RESERVE
- DENOTES PROPOSED SEWER PUMP STATION SITE
- DENOTES ROAD CLOSURE AND WIDENING "SWAP" S.E.C.NR
- COASTAL MULTI DWELLING (1/220m²)
- COASTAL HOUSING LOW DENSITY (1/450m²)
- 3 STOREY MEDIUM DENSITY (1/125m²) TOURIST OR PERMANENT
- 3 STOREY COASTAL UNITS (1/160m²) TOURIST OR PERMANENT
- VILLAGE CENTRE (TOURIST OR PERMANENT)

PROPOSED SEASIDE LAND USE PLAN
 SEASIDE CITY, KINGSCLIFF

SCALE: 1:4000
 DATE: 05/12
 DRAWN: ZP



Courtyard Housing - Alternative Site Plan

DRAWN	DATE	SCALE	BNG No	WD 03	RD
KH	Mar 2012	1:150	A3		B

Seaside Living Pty Ltd
 9/27 - 10/100 Stn
 South Hayes Centre
 85-86 Seafish Drive
 Hayes (Murrumbidgee) NSW 2578



NO	DATE	DESCRIPTION
1	05.11.11	REVISED LAYOUT FOR COURTYARD HOUSING - SEE LAMP NOTES
2	05.11.11	REVISED LAYOUT FOR COURTYARD HOUSING - SEE LAMP NOTES (STAIRS CHANGED)

Type of Development	Minimum		Probable		Maximum		Average
	No. of Dwellings / units	Total Residents	No. of Dwellings / units	Total Residents	No. of Dwellings / units	Total Residents	
Coastal Dwellings	80	208	105	273	160	416	299
Coastal Multi Dwelling Housing	120	204	150	255	210	357	272
Coastal Units	354	602	472	802	708	1204	869
Tourist Accommodation	136	231	170	289	289	491	337
Village Centre Accommodation	64	109	104	177	104	177	154
TOTAL	754	1354	1001	1796	1471	2645	1931

Table 1: Seaside S.94 Plan Yield Table (reference: Page 28-8)

Type of Development	No. of Dwellings / Units	Total Residents
Coastal Dwellings	168 lots inc. those already re-subdivided on western side of Casuarina Way @ 2.6 persons per lot	437
Coastal Multi Dwelling Housing	Approx 19,661m ² @ 1/220m ² = 90 dwellings @ 2.6 persons per lot	234
Coastal Units	Approx 19,218m ² @ 1/160m ² = 120 dwellings @ 1.7 persons per unit	204
Tourist / Permanent Residential Accommodation	Approx 8,906m ² @ 1/125m ² = 71 dwellings @ 1.7 persons per unit	121
Village Centre Accommodation	Approx 12,586m ² @ say 1/100m ² = 126 dwellings @ 1.7 persons per unit	215
TOTAL	575	1211

Table 2: Potential Seaside S.94 Plan Yield Table

NB. Includes assumption of re-subdivision of additional Coastal Housing allotments

The Proposed Development Application

In addition to the request for an amendment to Tweed DCP Section B11 the applicant has provided Council with a development application seeking approval for 33 existing allotments to be re-subdivided to create a total of 50 residential allotments. At this point of time, the application has not been formally lodged.

The following information has been submitted by the applicant:

"Planit Consulting has been commissioned by Richtech Pty Ltd to prepare and submit a Statement of Environmental Effects relating to a proposed fifty (50) Lot Residential Re-Subdivision on land at Seaside City. The report has been prepared in accordance with Council's requirements for Subdivision. The proposal is to be carried out over four (4) stages.

This proposal is in direct response to financial pressures being applied to our client. In this regard our client has provided significant financial outlay to undertake the civil works required to enable the Seaside City allotments to be utilised for residential purposes. This process was undertaken after Council and the developer prepared and adopted a DCP for the area. This investment represented a significant outlay in order to facilitate pre-requisite infrastructure, however this investment, coupled with market conditions necessitates urgent action.

Since development of the DCP and carrying out of necessary infrastructure, financial situations have changed and the DCP now dictates densities and development types which are unachievable and in conflict with market requirements. The types of development prescribed by the DCP are such that securing buyers for the allotments or bank funding to develop the allotments is effectively impossible.

This application for subdivision is made concurrently with an application to amend Section B11 of the Tweed Development Control Plan (TDCP) 2008. The amendment will see a change to the structure plan to allow additional coast housing and alternative forms of medium density development such as court yard housing and town houses. This application should be read in conjunction with the request to amend Section B11 of the TDCP 2008."

The proposed 50 allotments vary in size between 503m² to 1304m². This includes 48 low density coastal housing allotments (1/450m²) and 2 coastal multi dwelling allotments (1/220m²). The two (2) larger allotments (1294m² and 1304m²) are located on the Ocean Avenue entrance central to the site.

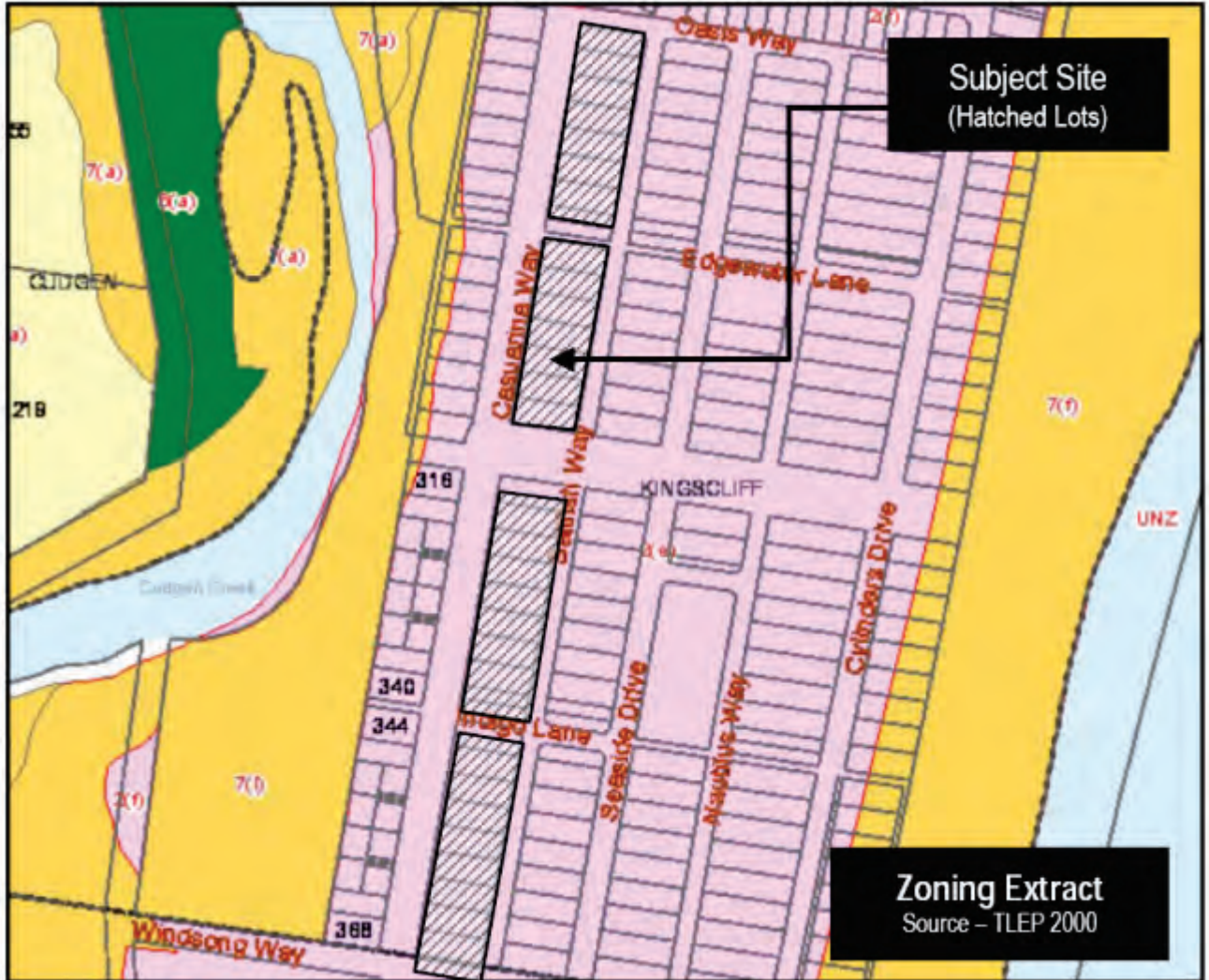
The existing Tweed DCP states that allotments in this area should comprise a combination of 2 storey coastal dwellings, 2 storey coastal multi dwelling housing, 3 storey coastal units, and 3 storey tourist accommodation (medium density tourist accommodation only).

The development application clearly complies with the proposed changes to the Tweed DCP but not the current Tweed DCP Section B11 - Seaside City.

The development application constitutes "Integrated Development" as the subject site is partially located within a mapped bushfire prone area. The application has not been accompanied with a payment to enable referral to the NSW Rural Fire Service.

The development application is affected by SEPP 71 – Coastal Protection and requires a master plan waiver issued by the Department of Planning & Infrastructure (DP&I) given the number of lots proposed. This waiver is normally required to be lodged with the development application and has not been submitted to date.

The following plans demonstrate the proposed staged development:







SEASIDE CITY, CASUARINA
STAGING PLAN - PART 01

SCALE: 1:100 @ A3
DRAWN: JF
DATE: 02/10
REV: 02

DRAW NO: SEASIDE_STAGING_P101
CHECKED: AS



PLANT CONSULTANTS
M&S ENGINEERING

Council Officer's Review of the Submitted Documentation

Council's Planning Reforms Unit (PRU) presented a report to the Council meeting of 15 May 2012, detailing a three-year work program, with particular focus on the 2012/2013 financial year. Council resolved to adopt this work program, which fully commits PRU resources for the 2012/2013 year. The subject DCP amendment does not specifically form part of the endorsed work program. Accordingly, to date, the PRU has not undertaken any detailed assessment of the requested DCP amendment, except for a cursory review for the purpose of this report.

Section B11 – Seaside City of the Tweed DCP was adopted on 12 April 2007, accordingly this Section of the DCP has been established for 5 years. It is considered best practice strategic planning to review such documents every 5 years to ensure their validity. The adopted work program allocates resources to policy maintenance broadly, however other Sections of the Tweed DCP have had a greater time period without review and as such, are more likely to a higher priority. These competing interests will be considered when the policy maintenance project commences.

Should Council resolve to pursue this DCP amendment, a framework has been established for the PRU and proponent to pursue the project independently by external consultants. Whilst recent experience confirms that this option creates a lesser resource impact upon the PRU, an impact is still present in the procurement and project management of these processes. Accordingly, should Council be of an opinion to proceed with a review of Section B11 of the Tweed DCP, a further Council report would be necessary to consider the adopted PRU Work Program with the view to reprioritising the current projects to enable sufficient resourcing. A future report would provide appropriate opportunity to debate the wider public benefit of pursuing any competing 'private' proposals.

With regard to the merit of this requested amendment, as stated previously, a genuine assessment has not yet been undertaken. However, on a precursory review, concerns are raised that the review is confined to one landowner, as opposed to a holistic review of the entire Section B11 of the Tweed DCP. It is acknowledged that the requested amendments only apply to one landowner, however these amendments, if supported, will result in 'flow-on' effects to other landowners and the integrity of the Seaside City vision. The interrelationships of the future desired urban fabric need to be appropriately considered. This is of particular relevance in light of the significant reduction in proposed density and dwelling targets on the sustained viability and vibrancy of the Village Centre.

In summary, should Council wish to pursue this DCP amendment further, a further report should be prepared to revise the PRU Work Program 2012/2013 which details the implications of commencing a review of Section B11 of the Tweed DCP and the reprioritisation of resources. Additionally, should the requested amendment be adopted as part of the PRU Work Program 2012/2013 a 'Costs and Expenses Agreement' is required between Council and the proponent to holistically review Section B11 – Seaside City of the Tweed DCP as the project is currently unfunded.

For the above reasons it is premature to accept any development application that is contrary to the current DCP and accordingly it is recommended to return the development application to the applicant until such time as the DCP has been amended.

OPTIONS:

Option A

1. Council informs the proponent that the requested Development Control Plan amendment does not form part of the Planning Reform Unit's 2012/2013 Work Program, however will be considered when formulating the 2013/2014 Work Program; and
2. Council returns the proposed development application (Seaside City) until an amended Tweed Development Control Plan Section B11 has been endorsed by Council.

OR

Option B

1. The Director of Planning and Regulation provide a further report to Council detailing the Planning Reform Unit's 2012/2013 Work Program with the view of including the requested Development Control Plan amendment; and
2. Council returns the proposed development application (Seaside City) until an amended Tweed Development Control Plan Section B11 has been endorsed by Council.

CONCLUSION:

The requested DCP amendment cannot be accommodated within the current Planning Reform Unit's adopted Work Program 2012/2013. In light of the above, should Council wish to pursue the amendment within the 2012/2013 financial year a further report to discuss the merits of this proposal and the possible reprioritisation of projects and resources will be necessary.

Finally, should this amendment be adopted as part of the PRU Work Program 2012/2013, prior to commencement, a 'Costs and Expenses Agreement' be required between Council and the proponent to holistically review Section B11 – Seaside City of the Tweed DCP as the project is currently unfunded.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Any DCP amendment would need to be funded as it is not currently resourced.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Any DCP amendment would need to satisfy the requirements of the Environmental Planning & Assessment Act 1979.

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)
 - 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:

Nil.

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19 [PR-CM] Tweed City Centre Local Environmental Plan 2012

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/LEP/2012



Civic Leadership



Caring for the Environment

SUMMARY OF REPORT:

This report details actions undertaken by Council's Planning Reforms (PRU) and Natural Resource Management (NRM) Units' since previous Council reporting in December 2011. The report concludes that the application of the E2 Environmental Conservation zone should not be pursued on the subject Charles Street, Tweed Heads properties at this stage. It is however the intention of the PRU and NRM to pursue a zone more reflective of the quality of the land within the work-in-progress Shirewide environmental strategy.

RECOMMENDATION:

That Council in respect of the previously endorsed Draft Tweed City Centre Local Environmental Plan 2009:

1. **Receives and notes the content of submissions received as part of the further consultation with Charles Street, Tweed Heads landowners affected by the draft E2 Environmental Conservation zoning;**
2. **Endorses the removal of the E2 Environmental Conservation zoning to the subject Charles Street properties, as shown in Figure 1 of this report, and apply a translation of the current Tweed Local Environmental Plan 2000 residential zones; and**
3. **Endorses the finalisation of a report to the Director General of the Department of Planning and Infrastructure, pursuant to the provision of Section 68(4) of the Environmental Planning and Assessment Act 1979 to assist in the making of the Tweed City Centre Local Environmental Plan 2012 in accordance with the zoning amendment.**

REPORT:

Background

At its meeting of 13 December 2011, Council considered a report regarding the Tweed City Centre Vision, Local Environmental Plan and Development Control Plan (Section B2) (the Plans). The report discussed the progress of the Plans following a second public exhibition period (A full copy of the report is contained within Attachment 1). After considering the report, Council resolved on a number of matters, including:

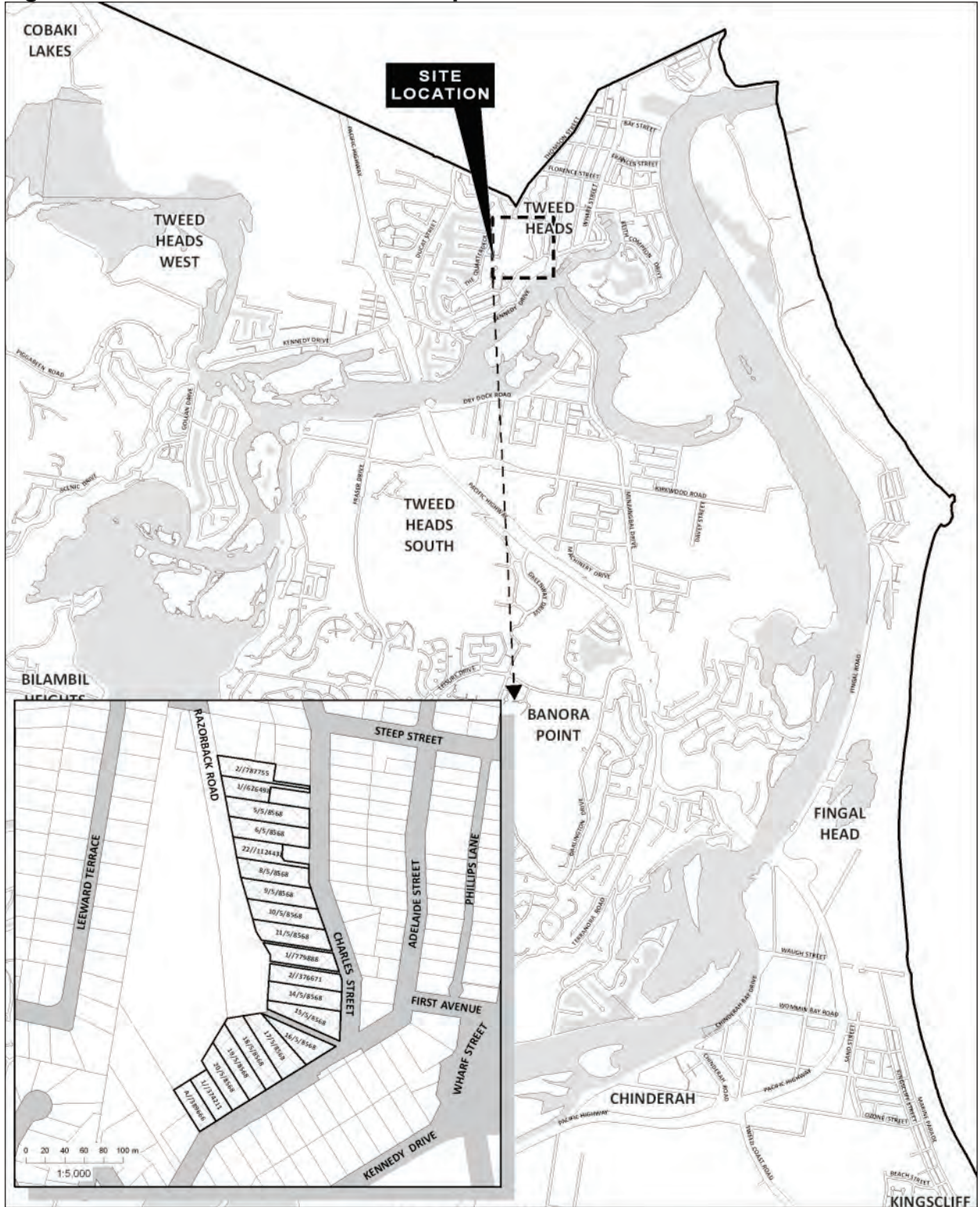
Tweed City Centre Local Environmental Plan 2012

4. *Endorses the adoption of the Draft Tweed City Centre Local Environmental Plan 2012;*
5. *Endorses the preparation and subsequent furnishing of a report to the Director General, pursuant to the provision of s68(4) of the Environmental Planning and Assessment Act 1979 to assist in the making of the Tweed City Centre LEP 2012;*

This report provides an update on the abovementioned resolution, with specific regard to a number of residential properties on Charles Street, Tweed Heads which, under this resolution, were endorsed to be zoned to part E2 - Environmental Conservation (E2) zoning.

Charles Street is located within the 'Ridgeline & Razorback Precinct' of the Tweed City Centre. The affected properties immediately adjoin the Razorback Reserve, which forms the western peak of the study area. The location of the properties affected by the E2 zoning are displayed in Figure 1.

Figure 1 – Affected Charles Street Properties



Locality Plan
Charles Street, Tweed Heads

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council make no representations or warranties, expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs (which may be incurred as a result of data being inaccurate in any way) and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavation a 'Dig before You Dig' enquiry must be made by calling 3110. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 07 June, 2012
© Land and Property Management Authority (LPMA) & Tweed Shire Council.
Boundaries shown should be considered approximate only.

0 0.45 0.9 Km
1:40,000 @ A4 Portrait
COPY ONLY - NOT CERTIFIED



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

Civic and Cultural Centre
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Murwillumbah NSW 2484

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E | planningreform@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

Date Printed: 07 June, 2012

Subsequent to the December Council Meeting

Following the December resolution, Council's PRU received several submissions from Charles Street residents relating to the adopted part E2 zoning of their properties and the draft Local Environmental Plan (LEP) plan-making process. In response, PRU requested NRM officers conduct a site inspection to confirm, or otherwise, the suitability of the previous findings prior to referring the LEP to the Department of Planning & Infrastructure (DP&I) in order for the LEP to be made.

NRM officers undertook an inspection in mid February, viewing the affected land from public vantage points and concluded the E2 was validly applied.

On 6 March 2012, affected landowners were invited to attend a meeting with Council staff to discuss the resolved change in land-use zoning. The meeting was hosted by PRU and NRM staff. Within the meeting, landowners were provided a contextual background to the Plans process, as well as the use and need for the E2 zoning, facilitating general discussion. At the conclusion of the meeting it was agreed that a NRM officer would undertake a detailed on-site inspection of each affected property to more accurately determine the location and extents of the E2 zoning.

On 28 March, the abovementioned field inspection was undertaken by NRM staff with several landowners also participating. As a result of those investigations, NRM staff recommended that the boundary of the E2 zone be redefined. Figure 2 and Table 1 show the changes between the previously resolved boundary as a blue dashed line and the NRM recommended E2 boundary adjustment.

Figure 2 – Previous and Proposed Charles Street Zonings

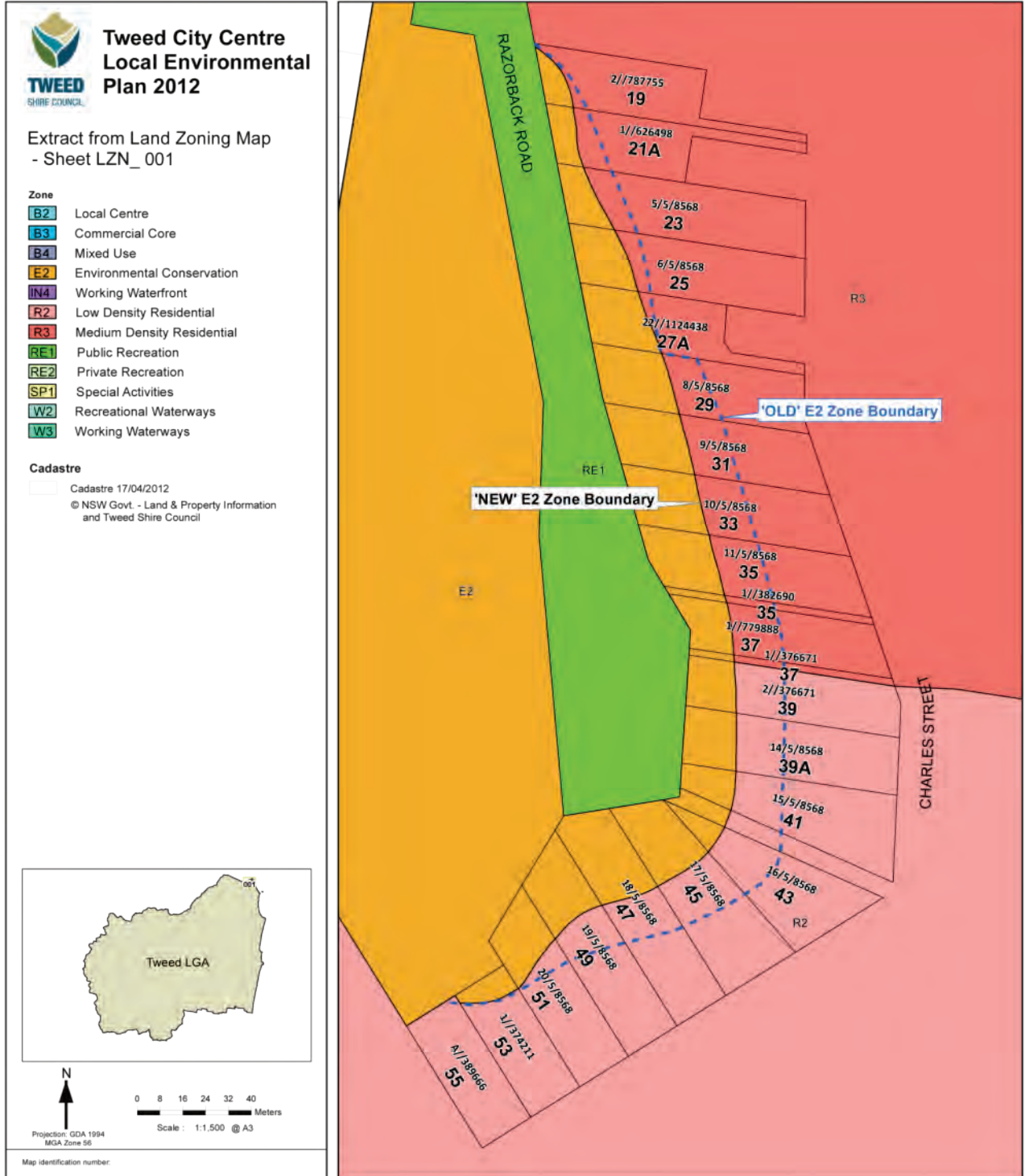


Table 1 – Affected Land Areas of Previous and Proposed Charles Street Zonings

HOUSE NUMBER	PARCEL	ZONE	LOT/SEC/DP	AREA_MF	PARCEL COVERAGE %	GAIN/LOSS AREA MF	HOUSE NUMBER	PARCEL	ZONE	LOT/SEC/DP	AREA_MF	PARCEL COVERAGE %	GAIN/LOSS AREA MF
19	PARCEL		2/1787755	1,271.06			37	PARCEL		1/1376671	176.57		
	OLD	E2	2/1787755	191.92	15.10%			OLD	E2	1/1376671	82.18	46.54%	
	NEW	E2	2/1787755	145.24	11.43%	-46.68		NEW	E2	1/1376671	38.87	22.02%	-43.30
	OLD	R3	2/1787755	1,079.14	84.90%			OLD	R3	1/1376671	94.39	53.46%	
	NEW	R3	2/1787755	1,125.82	88.57%	46.68		NEW	R3	1/1376671	137.69	77.98%	43.30
21A	PARCEL		1/1626498	1,127.74			39	PARCEL		2/1376671	1,329.08		
	OLD	E2	1/1626498	343.16	30.43%			OLD	E2	2/1376671	611.75	46.03%	
	NEW	E2	1/1626498	184.84	16.39%	-158.32		NEW	E2	2/1376671	302.86	22.79%	-308.89
	OLD	R3	1/1626498	784.58	69.57%			OLD	R2	2/1376671	717.33	53.97%	
	NEW	R3	1/1626498	942.90	83.61%	158.32		NEW	R2	2/1376671	1,026.22	77.21%	308.89
23	PARCEL		5/5/8568	1,729.27			39A	PARCEL		14/5/8568	1,528.26		
	OLD	E2	5/5/8568	444.04	25.68%			OLD	E2	14/5/8568	714.99	46.78%	
	NEW	E2	5/5/8568	250.99	14.51%	-193.06		NEW	E2	14/5/8568	375.02	24.54%	-339.98
	OLD	R3	5/5/8568	1,285.22	74.32%			OLD	R2	14/5/8568	813.27	53.21%	
	NEW	R3	5/5/8568	1,478.28	85.49%	193.06		NEW	R2	14/5/8568	1,153.25	75.46%	339.98
25	PARCEL		6/5/8568	1,644.07			41	PARCEL		15/5/8568	1,487.74		
	OLD	E2	6/5/8568	504.41	30.68%			OLD	E2	15/5/8568	497.17	33.42%	
	NEW	E2	6/5/8568	382.10	23.24%	-122.32		NEW	E2	15/5/8568	215.43	14.48%	-281.74
	OLD	R3	6/5/8568	1,139.65	69.32%			OLD	R2	15/5/8568	990.56	66.58%	
	NEW	R3	6/5/8568	1,261.97	76.76%	122.32		NEW	R2	15/5/8568	1,272.30	85.52%	281.74
27A	PARCEL		22/1124438	1,114.55			43	PARCEL		16/5/8568	1,264.95		
	OLD	E2	22/1124438	496.43	44.54%			OLD	E2	16/5/8568	444.76	35.16%	
	NEW	E2	22/1124438	456.78	40.98%	-39.65		NEW	E2	16/5/8568	123.00	9.72%	-321.76
	OLD	R3	22/1124438	618.12	55.46%			OLD	R2	16/5/8568	820.19	64.84%	
	NEW	R3	22/1124438	657.77	59.02%	39.65		NEW	R2	16/5/8568	1,141.94	90.28%	321.76
29	PARCEL		8/5/8568	1,478.32			45	PARCEL		17/5/8568	1,689.68		
	OLD	E2	8/5/8568	801.69	54.23%			OLD	E2	17/5/8568	965.52	57.14%	
	NEW	E2	8/5/8568	525.32	35.54%	-276.37		NEW	E2	17/5/8568	555.71	32.89%	-409.81
	OLD	R3	8/5/8568	676.63	45.77%			OLD	R2	17/5/8568	724.16	42.86%	
	NEW	R3	8/5/8568	953.00	64.46%	276.37		NEW	R2	17/5/8568	1,133.97	67.11%	409.82
31	PARCEL		9/5/8568	1,476.09			47	PARCEL		18/5/8568	1,625.50		
	OLD	E2	9/5/8568	844.68	57.22%			OLD	E2	18/5/8568	999.74	61.50%	
	NEW	E2	9/5/8568	534.05	36.18%	-310.63		NEW	E2	18/5/8568	680.67	41.87%	-319.07
	OLD	R3	9/5/8568	631.41	42.78%			OLD	R2	18/5/8568	625.77	38.50%	
	NEW	R3	9/5/8568	942.04	63.82%	310.63		NEW	R2	18/5/8568	944.84	58.13%	319.07
33	PARCEL		10/5/8568	1,502.22			49	PARCEL		19/5/8568	1,521.79		
	OLD	E2	10/5/8568	847.48	56.42%			OLD	E2	19/5/8568	776.40	51.02%	
	NEW	E2	10/5/8568	510.95	34.01%	-336.53		NEW	E2	19/5/8568	511.46	33.61%	-264.94
	OLD	R3	10/5/8568	654.74	43.58%			OLD	R2	19/5/8568	745.39	48.98%	
	NEW	R3	10/5/8568	991.27	65.99%	336.53		NEW	R2	19/5/8568	1,010.33	66.39%	264.94
35	PARCEL		11/5/8568	1,515.85			51	PARCEL		20/5/8568	1,315.96		
	OLD	E2	11/5/8568	834.58	55.06%			OLD	E2	20/5/8568	519.83	39.50%	
	NEW	E2	11/5/8568	487.49	32.16%	-347.09		NEW	E2	20/5/8568	418.68	31.82%	-101.16
	OLD	R3	11/5/8568	681.28	44.94%			OLD	R2	20/5/8568	796.13	60.50%	
	NEW	R3	11/5/8568	1,028.37	67.84%	347.09		NEW	R2	20/5/8568	897.29	68.18%	101.15
35	PARCEL		1/1382690	178.42			53	PARCEL		1/1374211	1,012.72		
	OLD	E2	1/1382690	93.71	52.52%			OLD	E2	1/1374211	165.98	16.39%	
	NEW	E2	1/1382690	51.39	28.80%	-42.32		NEW	E2	1/1374211	157.11	15.51%	-8.87
	OLD	R3	1/1382690	84.71	47.48%			OLD	R2	1/1374211	846.74	83.61%	
	NEW	R3	1/1382690	127.03	71.20%	42.32		NEW	R2	1/1374211	855.61	84.49%	8.87
37	PARCEL		1/1779888	1,252.84			55	PARCEL		A/1389666	1,014.52		
	OLD	E2	1/1779888	611.58	48.82%			OLD	E2	A/1389666	7.19	0.71%	
	NEW	E2	1/1779888	301.37	24.05%	-310.22		NEW	E2	A/1389666	0.00	0.00%	-7.19
	OLD	R3	1/1779888	641.26	51.18%			OLD	R2	A/1389666	1,007.32	99.29%	
	NEW	R3	1/1779888	951.47	75.95%	310.22		NEW	R2	A/1389666	1,014.52	100.00%	7.20

As outlined in Figure 2 and Table 1, the revised zone boundary reduces the amount of land subject to the E2 zone across all properties.

Landowners were informed by letter dated 17 April 2012 of the post-inspection, provided with maps illustrating the change, and offered an opportunity to comment in writing by close of business on 7 May 2012.

At the close of this period, a total of eight (8) submissions were received. A complete copy of the submissions received can be found as Attachment 2 of this report, however the issues raised can be summarised as follows:

1. *Public exhibition process* – Concern was raised that landowners were not adequately informed, insufficient exhibition material was made available and Council reporting failed to alert Councillors that the E2 zone affected up to 60% of the individual private properties involved;
2. *'Generalised approach' of identifying the zone boundary* – Concern was raised that the basis of the introduced E2 zoning did not arise from a specific study developed from robust data sources and analysis;
3. *'Quality' of vegetation* – Concern was raised that the vegetation present is not a significant area of natural vegetation and therefore does not specifically require the use of an environmental zone;
4. *Land values and (re)development potential* – Concerns were raised regarding the draft zoning restricting development potential and adversely affecting the value of properties with no compensation being offered.
5. *Land Management* – Concern was raised that the E2 zoning would not result in the vegetation being restored and could result in safety issues from fire risk and snakes.

A brief response to each broad issue raised is as followed:

Issue 1: The Environmental Planning & Assessment Act 1979 (EP&A Act 1979) and the Environmental Planning and Assessment Regulation 2000 establish the requirements for making an LEP, including when and how to consult with the community. The PRU adhere to these requirements when preparing LEPs to ensure the LEPs are legally made. Whilst individual property owners were not directly notified, the Plans were exhibited and reported consistent with the legislative requirements. No changes to the LEP are recommended as a result of this issue.

Issue 2: The subject land was identified within the Tweed Vegetation Management Strategy 2004 (TVMS) as 'Very High' Ecological Status and 'High' Ecological Sensitivity. These findings informed Council's 'Bushland' mapping within the LEP, exhibited both in 2010 and 2011.

Following the 2010 submission period, NRMs environmental officers further reviewed aerial photography of the area. This review concluded with a recommendation that an amendment be made to the Zoning map to apply the E2 zone prior to re-exhibition of the Plans.

Since this recommendation, the site has been inspected on two (2) occasions by environmental scientists, including one (1) inspection of each property affected. The findings of these inspections have confirmed the application of the E2 zone.

The review of the site by suitably qualified professionals, both at a desktop and on-site level and including the findings of the TVMS is considered to constitute a robust data source and analysis. The analysis undertaken is considered to satisfy the necessary interrogation to apply the E2 zoning. No changes to the LEP are recommended specifically as a result of this issue.

Issue 3: The EP&A Act 1979 provides a variety of opportunities for local councils to protect land possessing environmental quality. Opportunities available within an LEP include zoning and local clauses (such as Council's proposed 'Bushland' clause 6.4). The precise use and coordination of these tools is predominately governed by the quality of the vegetation, whether that is for biodiversity, scenic quality or other. The hierarchy of protection within an LEP is as follows:

1. Zoning – The Standard Instrument Order 2006 (SI) provides four environmental zones specifically for land where the primary focus is the conservation and/or management of environmental values.
2. Local Clauses – Throughout the preparation of a the LEP, Council has pursued the use of an 'Additional local provision' clause titled 'Environmentally sensitive land – bushland'. The clause applies to land mapped as 'Bushland' and details heads of consideration for the consent authority to consider prior to any consent being granted. The clause does not affect permitted land uses, rather provides an additional layer of assessment before a development approval can be granted.

A number of the affected property owners have expressed the opinion that the vegetation does not specifically warrant an E2 zoning, rather, should remain zoned as residential, coupled with the retention of the bushland mapping and clause. This proposal is considered by the landowners to:

- Enable the community to be aware that the land possess higher environmental qualities;
- Requires applicants to address the environmental heads of consideration established within the bushland clause, and;
- Enables the consent authority to refuse development that is not designed and located as to have minimum adverse impact, and incorporates effective measures to remedy or mitigate any adverse impact caused.

The above proposal has been discussed at length with NRM officers. NRM maintain their view that the environmental qualities of the lands in question are of such significance that the E2 zoning is warranted. Accordingly, the exclusive residential zoning of these lots is not considered to be appropriate in the longer term.

However, both the PRU and NRM are currently reviewing and developing an environmental strategy for the Shire as part of, and to be implemented through, the zoning structure within Standard instrument LEP 'template', based Draft Shirewide LEP. An issue presently being reviewed within the Draft Shirewide LEP, which impacts on the subject Charles Street properties, is whether the environmental zone should be applied prior to the broader strategy being finalised and endorsed by the Council.

Within recent months the Department of Planning and Infrastructure has indicated that a new environmental zone is likely to be incorporated into the standard instrument in the near

future. The introduction of an additional zone will afford further opportunities to protect environmentally sensitive land appropriately through regulating land use. However, development of the zone (particularly permissibility & prohibitions) is still in a development stage.

In light of the above, it is recommended that for affected private urban land within the Tweed City Centre area, the current zone provisions of the Tweed LEP 2000 be translated into the Tweed City Centre LEP until such time as the broader strategy and zones are settled. Should this recommendation be supported, the affected properties would retain a residential zoning, however the local 'Bushland' clause would regulate development pursued in the short-term. In the longer-term, Council officers will be recommending pursuing additional protection and conservation of this land through an alternate zoning as part of the wider, Shirewide environmental strategy.

Issue 4: The imposition of the E2 Environmental Conservation zone will undoubtedly restrict the range of development landowner could have previously pursued on the land, however a variety of land uses remain permissible with and without consent. The Land Acquisition (Just Terms Compensation) Act 1991 establishes the process for land acquisition, however the affected sites are not specifically earmarked for, nor required to be acquired. No amendment to the LEP is recommended specifically as a result of this issue.

Issue 5: The imposition of the E2 Environmental Conservation zone is not considered to adversely restrict maintenance to allow sufficient asset and human safety. No changes to the LEP are recommended as a result of this issue.

Environmental Zoning on Public Land

Simultaneous to applying the E2 zone to the referred Charles Street properties, the zone was also applied to other public land within the City Centre area, including vegetated areas to the immediate South of 'The Anchorage Islands', as well as adjoining Eden Street and Tweed Terrace on Flagstaff Hill (illustrated in Figure 3). Through the subsequent re-exhibition process no formal submissions were raised. Whilst the 'private' land of Charles Street is recommended to return to an urban zone, it is considered appropriate to maintain the E2 zone on the public land. Application of this zone will be again reviewed within the wider, Shirewide environmental strategy.

Figure 3 – Public Land rezoned for Environmental Conservation



DRAFT Tweed City Centre Local Environmental Plan 2012

ZONE

E2 - Environmental Conservation

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 the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for 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 excavations a 'Dig before You Dig' enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 07 June 2012
 © Land and Property Management Authority (LPMA) & Tweed Shire Council.
 Boundaries shown should be considered approximate only.

0 100 200 300 m
 1:9,500 @ A4 Portrail
 DO NOT SCALE
 COPY ONLY - NOT CERTIFIED
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1984
 GDA
 Map of Australia, Zone 56

Civic and Cultural Centre
 3 Tambulgan Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au



OPTIONS:

1. Remove the application of the E2 Environmental Conservation Zone from the Charles Street properties identified in Figure 1; or
2. Amend the application of the E2 Environmental Conservation Zone on the Charles Street properties as amended in Figure 2.

Option 1 is recommended by the Council officers.

CONCLUSION:

Subsequent to Council's previous resolution of 13 December 2011, Council's PRU and NRM Units have extensively investigated the application of the E2 Environmental Conservation (E2) zone to a number of properties on Charles Street, Tweed Heads. Whilst the current Tweed LEP 2000 zones these properties for residential use, the quality of vegetation found across these sites is considered worthy of conservation through the application of the E2 zone. However, Council's PRU and NRM are currently reviewing and developing an environmental strategy for the Shire as part of, and to be implemented through, the zoning structure within the Standard instrument LEP 'template', based Draft Shirewide LEP. It is considered that this wider strategy is the appropriate document and opportunity to pursue zoning changes that introduce environmental zones to private land.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

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
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.2 Advancement of the Council wide and Tweed City Centre Draft Local Environmental Plans (LEPs)
- 1.1.1.2.1 Prepare Draft LEPs in accordance with the sustainability objectives of the Environmental Planning and Assessment Act 1979 and other relevant legislation
- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed

- 4.1.1 Retain open space and greenbelts for conservation and for all people to enjoy.
- 4.1.1.1 Appropriate zoning controls and planning provisions
- 4.1.1.1.1 Create appropriate zoning controls and planning provisions through the Council wide Local Environmental Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Council report of 13 December 2011 - Tweed City Centre Vision, Local Environmental Plan and Development Control Plan (Section B2) (ECM 51557474)
 2. Submissions received during the additional consultation period (ECM 51558481)
-

20 [PR-CM] Approvals to Operate Markets - Kingscliff, Pottsville, Knox Park Murwillumbah and Recreation Reserve, Tweed Heads

SUBMITTED BY: Building and Environmental Health



Supporting Community Life



Strengthening the Economy

SUMMARY OF REPORT:

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

On 17 April 2012 Council resolved to call for Expressions of Interest from any person or group who wishes to be considered as a candidate to operate the four (4) markets from 1 July 2012, for a period of three years.

The period for receipt of Expressions of Interest closed on 15 May 2012. A limited number of submissions have been received as detailed in this report.

Separate reports will be put to the Reserves Trusts for endorsement.

RECOMMENDATION:

That:

- 1. Approval is granted to operate the respective markets from 1 July 2012 for a period of three years to the following:**
 - (a) Recreation Ground Tweed Heads – Tweed Heads Police and Community Youth Club.**
 - (b) Pottsville – Pottsville Beach Neighbourhood Centre.**
 - (c) Kingscliff – Lions Club of Kingscliff (Inc.).**
- 2. Relevant conditions are applied to those approvals as determined by the General Manager or his delegate.**

REPORT:

The current approvals to conduct the markets at Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville expire on 30 June 2012. On 17 April 2012 Council resolved to call for Expressions of Interest from any person or group who wishes to be considered as a candidate to operate the four (4) markets from 1 July 2012, for a period of three years. The period for receipt of Expressions of Interest closed on 15 May 2012.

Three (3) submissions were received for the markets at Tweed Heads, Pottsville and Kingscliff by the existing market operators, as detailed below. A summary of the submissions is provided in the Tables below.

Submission – Recreation Reserve, TWEED HEADS

Submissions	Experience	Business Skills	Policy Compliance	Financial Return to Council	Benefits to Community Based Organisations
Tweed Heads Police & Community Youth Club (PCYC)	Has over 12 years experience successfully operating the subject market.	Employs a Market Coordinator who supervises markets.	No major Policy non-compliance issues have been identified in the previous 3 years operation.	15% of stall rental income	PCYC is a not-for-profit company which provides services and facilities for young people and the wider community.

Submission – KINGSCLIFF

Submissions	Experience	Business Skills	Policy Compliance	Financial Return to Council	Benefits to Community Based Organisations
Lions Club of Kingscliff (Inc.)	Has successfully operated the market since July 2006	Has a Market Management Committee with several members dedicated to market operation.	No major Policy non-compliance issues have been identified in the previous 3 years operation.	15% of stall rental income	Lions is a community service based organisation with the 'net profits' passed onto the local community.

Submission - POTTSVILLE

Submissions	Experience	Business Skills	Policy Compliance	Financial Return to Council	Benefits to Community Based Organisations
Pottsville Beach Neighbourhood Centre (PBNC)	Has 9 years experience successfully operating the subject market.	Has a dedicated Market Coordinator who supervises the markets.	No major Policy non-compliance issues have been identified in the previous 3 years operation.	17.5% of stall rental income	PBNC provides substantial monetary and in-kind support to individuals and local community based organisations and groups.

The submission by the Tweed Heads Police and Community Youth Club, the Lions Club of Kingscliff (Inc.) and the Pottsville Beach Neighbourhood Centre are welcomed as each respective candidate has a proven record of professional and competent market operation.

If approval is granted to the respective candidates it would be viewed as a continuation of a valuable income source to community service organisations which provide ongoing community support and youth development programs. Further, the respective markets are regular vibrant local events which attract visitors to the Tweed Valley and provide an opportunity for promotion and sale of local goods and produce.

Knox Park Murwillumbah

No submissions were received from any interested party seeking to operate the markets at Knox Park Murwillumbah.

It is noted that a 'farmer's market' has been operating for about 12 months each Wednesday morning at the Murwillumbah Showground, which may have provided an alternative opportunity to promote and sell local produce.

Markets are also held at the Murwillumbah Showground on the fourth Sunday of the month.

OPTIONS:

1. Issue No Further Approval for any Markets

The markets are an attraction to visitors and residents and provide income sources to the operators and numerous stall holders involved (under suitable economic conditions).

2. Council to Operate and Administer the Markets

Additional staffing resources would be necessary to achieve internal management of markets. It is highly unlikely that income would fund the associated costs. This is not necessarily a function which Council is seeking to perform and it can be performed adequately by private or community based service organisations (under suitable economic conditions).

3. Approve Issue of an Approval to the Identified Applicants

Public Expressions of Interest have been sought to determine the most appropriate person or group to manage the markets. In this instance the existing operators have been the only parties to express an interest in operating the markets. The existing managers have a successful record of operating the respective markets and it is recommended that approvals be issued for them to operate and manage the markets for another three years, as outlined in this report.

CONCLUSION:

It is recommended that Council approves operation of the respective markets for a period of three years from 1 July 2012 as follows:

- (a) Recreation Ground Tweed Heads – Tweed Heads Police and Community Youth Club;
- (b) Pottsville – Pottsville Beach Neighbourhood Centre; and
- (c) Kingscliff – Lions Club of Kingscliff (Inc.)

COUNCIL IMPLICATIONS:

a. Policy:

Vending of Food on Public Reserves Version 1.1.

b. Budget/Long Term Financial Plan:

Between 15% and 17.5% of stall rental income from the respective markets is returned to Council from the annual market operators.

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:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being
- 3 Strengthening the Economy
 - 3.1 Expand employment, tourism and education opportunities
 - 3.1.6 Support creative practitioners and entrepreneurs to access professional and business development opportunities, to enhance their contribution to the creative economy
 - 3.1.6.1 Creative economy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

21 [CNR-CM] Structural Reform Business Case - Rous Water, Richmond River County Council, Far North Coast Weeds

SUBMITTED BY: Director Community and Natural Resources



Caring for the Environment

SUMMARY OF REPORT:

NOROC engaged the UTS (University of Technology, Sydney) Centre for Local Government to undertake a cost and benefit analysis of the current structural arrangements of the three County Councils in the Richmond Valley. The engagement also assessed opportunities for reform and made a recommendation on a preferred model.

NOROC have resolved to support Option 7 from the Business Case and have written to each of the member Councils requesting their concurrence or otherwise. Option 7 is reproduced below:

"Create a new county council that incorporates all the existing functions of the current three county councils with a new constitution that provides the flexibility to accommodate the management and delivery of regional initiatives; the governance structure would include representation from only four of the current six constituent councils (excluding Tweed and Kyogle shire councils)"

Tweed Shire Council's involvement with this Business Case is through being a constituent Council of Far North Coast Weeds which is a County Council comprising 11 staff and 6 Councillors with an annual budget of \$1.5million. Far North Coast Weeds have a regulatory role to ensure compliance with the Noxious Weeds Act 1993, a land management role for control of weeds on public lands, strategic control of high priority high risk weed species, and an education role. Corporate services and the role of General Manager for Far North Coast Weeds is provided through Rous Water.

The continuation of the three county councils under the current arrangements is not considered viable and reform is considered essential to ensure the ongoing provision of their services.

RECOMMENDATION:

That Council supports Option 7 from the UTS Centre for Local Government - Business Case for Structural Reform - April 2012, as the basis for the reform of Far North Coast Weeds, Rous Water, and Richmond River County Council.

REPORT:

Attached is the UTS Centre for Local Government - Business Case for Structural Report April 2012 which provides a comprehensive assessment of the current structural arrangements and options for reform. The report recommends Option 7 as the preferred model of reform.

Also attached is a letter from NOROC supporting Option 7 and a letter from Far North Coast Weeds advising of their non support for any of the options and advice regarding the engagement of a separate consultant to review alternative options of service delivery including the establishment of a weeds authority.

OPTIONS:

1. Council could support the UTS and NOROC recommendation of Option 7.
2. Council could support one of the alternative options as outlined in the UTS report.
3. Council could support the approach taken by Far North Coast Weeds or at least wait for the outcome of their separate review.

CONCLUSION:

Structural reform is required of the three county councils referred to in this report. The preferred option proposed by UTS and NOROC provides a cost effective and more streamlined structure with opportunities to provide a greater range of services common to all Councils in the Richmond Valley.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The UTS report estimates the one-off cost of establishing Option 7 would be \$250,000 and the recurrent savings \$160,000 per year.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.3 Recognise the social and economic impacts of managing vegetation
- 4.2.3.1 Noxious weed management
- 4.2.3.1.1 Ongoing liaison and support for Far North Coast Weeds

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Attachment 1** - UTS Centre for Local Government - Business Case for Structural Report April 2012 (ECM 50780546)
 2. **Attachment 2** - Letter from NOROC dated 21 May 2012 (ECM 50780545)
 3. **Attachment 3** - Letter from Far North Coast Weeds dated 24 May 2012 (ECM 51117356)
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22 [CNR-CM] EC2012-087 Annual Supply and Delivery of Pressure Pipe and Various Water Service Fittings

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

This report outlines the tender for EC2012-087 Annual Supply and Delivery of Pressure Pipe and Various Water Service Fittings with a two year contract period commencing 1 July 2012 until 30 June 2014. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Schedules included in Confidential Attachment A.

RECOMMENDATION:

That:

- The following tenderers, with prices contained in the attached schedules be awarded supply contracts for EC2012-087 Annual Supply and Delivery of Pressure Pipe and Various Water Service Fittings for the period 1 July 2012 until 30 June 2014.**

Schedule	Description	Supplier
A	Water Service Fittings	Elster Metering
		Tweed Heads Plumbing Supplies
B	Water Meters, Back Flow Devices	Elster Metering, Tyco
C	Water Mains Pipe	Crevet Pipelines
D	DWV RRJ Sewer Pipe	Crevet Pipelines
E	DWV Solvent Joint Sewer Pipe	Crevet Pipelines
F	Sewer Rising Main Pipe	Tyco
G	RRJ Sewer Fittings	Vinidex
H	Polyethylene Pipe	Crevet
I	Copper Pipe	Tweed Heads Plumbing Supplies
J	Misc items	Tyco, Crevet Pipelines
K	Hydrant and Valve Blocks, Meter Boxes	Tyco, Tweed Heads Plumbing Supplies
L	Water Main Valves	Tyco, Crevet, Valveco
M	Water Main Ductile Iron Fittings	Tyco, Crevet, Aussie Fasteners

2. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Council tender EC2012-087 Annual Supply and Delivery of Pressure Pipe and Various Water Service Fittings closed on 11 April 2012. The supply arrangement is for a two year period commencing 1 July 2012 until 30 June 2014.

The various pressure pipe types and water service fittings offered in the tender are held as stock items in Council's depot store and issued for the use in the maintenance of the Council's Water and Wastewater systems.

The tender was separated into 13 sections with prices requested for approximately 290 items.

Supply contracts can be let in their separable portions or as a whole contract or any combination of the separable portions.

Tenders Received

A total of eight responses were received to the tender.

Submissions were received from the following suppliers:

Aussie Fasteners

Elster Metering

Southern Cross Fasteners

Tyco Water

Crevet Pipelines

HMA Valveco

Tweed Heads Plumbing Supplies

Vinidex

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Council's Water Unit Operations Engineer, Connections Officer and Contracts Engineering Administration Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest

OPTIONS:

Not Applicable.

CONCLUSION:

Based on the evaluation contained in the confidential attachment, it is recommended that suppliers be awarded supply contracts for a two year period commencing 1 July 2012 until 30 June 2014.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 Water and Sewer Maintenance Budgets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.6 Deliver annual operations and maintenance programs
- 2.3.2.6.2 Water consumer services

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** - EC2012-087 Annual Supply and Delivery of Pressure Pipe and Various Water Service Fittings (ECM 51854749).
-

23 [CNR-CM] EC2010-051 Supply and Delivery of Water Treatment Chemicals and Gases Contract Extension

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

Contract EC2010-051 for the Supply and Delivery of Water Treatment Chemicals and Gases expires on 30 June 2012. Provision exists under the terms of the supply arrangement for a possible further two (2) year extension option.

The extension period will be from 1 July 2012 until 30 June 2014 with the same terms and conditions of the original agreement applying for the extension period.

Recommendations have been formulated following pricing assessment which is contained in the Pricing Report included in **CONFIDENTIAL ATTACHMENT A**.

RECOMMENDATION:

That:

- 1. Council renews the contract EC2010-051 Supply and Delivery of Water Treatment Chemicals and Gases for the period 1 July 2012 until 30 June 2014 with the rates as submitted, to the suppliers of Schedule A to L excluding I.**
- 2. Council readvertises the annual supply contract for Sodium Hydroxide (Schedule I).**
- 3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Contract EC2010-051 for the Supply and Delivery of Water Treatment Chemicals and Gases expires on 30 June 2012. Provision exists under the terms of the supply arrangement for a possible further two (2) year extension option.

Existing suppliers were contacted and their advice sought as to their willingness to extend the supply arrangement for a further two (2) years and the rates that would apply for the commencement of the extended supply term.

The current contract suppliers and chemicals and gases supplied are as follows:

Supplier	Schedule	Description
Orica	Schedule A	Chlorine Gas
Air Liquide Australia	Schedule B	Carbon Dioxide Gas
Quantum Group	Schedule C	Hydro Fluorosilicic Acid
Sibelco	Schedule D	Hydrated Lime
Omega	Schedule E	Citric Acid
Omega	Schedule F	Sodium Bisulphite
James Cumming	Schedule G	Powder Activated Carbon
Chemiplas	Schedule H	Polymer
Omega	Schedule I	Sodium Hydroxide
Omega	Schedule J	Liquid Aluminium Sulphate
Elite Chemicals	Schedule K	Sodium Hypochlorite
Orica	Schedule L	Magnesium Hydroxide

EVALUATION

The Tender Evaluation was conducted by Council's the Water Unit's Treatment Plant and Process Engineer, Operations Engineer and Contracts Unit's Engineering Admin Supervisor. A copy of the Pricing Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest

Based on the evaluation contained in the Confidential Attachment, it is recommended that Schedule I of tender EC2010-051 not be renewed and be reoffered to tender and that all other submissions for the Supply and Delivery of Water Treatment Chemicals and Gases be extended for the period 1 July 2012 until 30 June 2014 with the rates as submitted to apply.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council endorses the recommendation as submitted.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 Water and Sewer Treatment Plant and Aquatic Facilities operation budgets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.6 Deliver annual operations and maintenance programs
- 2.3.2.6.6 Water treatment plants
- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.6 Deliver Annual Operations and Maintenance Program
- 2.3.3.6.5 Waste Water Treatment Plants

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2010-051 Supply and Delivery of Water Treatment Chemicals and Gases (ECM52050808).
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24 [CNR-CM] EC2012-084 Annual Contract for the Supply and Delivery of Ultra Violet Disinfection Lamps and Accessories

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

This report outlines the tender for EC2012-084 Annual Supply of Ultra Violet Disinfection Lamps and Accessories to service Council's Murwillumbah, Tumbulgum and Banora Point Wastewater Treatment Plants.

The supply period will be for a two year term commencing 1 July 2012 until 30 June 2014 with a possible further 12 month extension option.

Recommendations have been formulated following pricing and warranty assessment which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**.

RECOMMENDATION:

That in relation to Tender EC2012-084 Annual Supply of Ultra Violet Disinfection Lamps and Accessories:

- 1. The tender from UVS Ultra Violet Pty Ltd for the supply and delivery of Tender Schedule Items 1 ,2, 5-11 be accepted. The supply period will for a two year period commencing 1 July 2012 until 30 June 2014 with a possible further 12 month extension option.**
- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Tender EC2012-084 closing 11 April 2012 has been called for the Annual Supply of Ultra Violet Disinfection Lamps and Accessories to Council. The contract is for the supply and delivery of replacement ultra violet disinfection lamps and ballasts at Council's Murwillumbah, Tumbulgum and Banora Point Wastewater Treatment Plants. The contract also provides for the safe disposal of the discarded lamps.

Ultra violet lamps are used in the odour control systems at the Wastewater Treatment Plants.

The supply period will be for a two year term commencing 1 July 2012 until 30 June 2014 with a possible further 12 month extension option.

TENDERS RECEIVED

Following the close of tenders a total of four submissions had been received.

Submissions received are as follows:

- UVS Ultra Violet Pty Ltd
- Orica Watercare
- UV - Guard Australia Pty Ltd
- Haymans - Electrical

TENDER EVALUATION

The Tender Evaluation was conducted by Council's Water Unit Treatment Plant and Process Engineer, Operations Engineer and Contracts Unit Engineering Administration Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on the evaluation contained in the confidential attachment, it is recommended that Council accepts the tender of UVS Ultra Violet Pty Ltd for the supply of Ultra Violet Disinfection Lamps and Accessories. The contract term is for a two year period commencing 1 July 2012 until 30 June 2014 with a possible further 12 month extension option.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the officers' recommendation that UVS Ultra Violet Pty Ltd be appointed to supply Ultra Violet Disinfection Lamps and Accessories to Council for the period 1 July 2012 until 30 June 2014 with a possible further 12 month extension option.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 WWTP maintenance budget allocations.

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
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.6 Deliver Annual Operations and Maintenance Program
- 2.3.3.6.1 Sewer fund management and administration

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** - EC2012-084 Annual Supply Contract for the Supply and Delivery of Ultra Violet Disinfection Lamps and Accessories (ECM 51360694).
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25 [CNR-CM] EC2010-062 Burringbar and Mooball Wastewater Reticulation Construction - Variation Report

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

On 21 June 2011 Council resolved to accept the tender from Ledonne Constructions Pty Ltd to perform the construction activities for the installation of the Burringbar/Mooball Wastewater Reticulation Construction for the Schedule of Rates and Lump Sums amount of \$3,275,635.45 exclusive of GST.

The General Manager was given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.

Based on approved variations to date the revised contract sum for EC2010-062 is \$3,392,368.26 exclusive of GST.

RECOMMENDATION:

That:

- 1. The variations to date amounting to \$116,732.81 (exclusive of GST) for Contract EC2010-062 Burringbar and Mooball Waste Water Reticulation Construction be received and noted.**
- 2. The General Manager is given delegated authority to approve additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.**

REPORT:

On 21 June 2011 Council resolved to accept the Tender from Ledonne Constructions Pty Ltd to perform the construction activities for the installation of the Burringbar/Mooball Wastewater Reticulation Construction for the Schedule of Rates and Lump Sums amount of \$3,275,635.45 exclusive of GST.

The General Manager was given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.

Following award of contract and the completion of approximately 80% of the construction works, a number of variations to the contract have been accepted.

A summary of variations approved to date under delegated authority is provided below:

No.	Variation Description	Amount (Excl. GST)	Status
1	Additional scope of works- relocation of sewer pump station 9002	\$9,061.82	Approved
2	Electrical audits of existing consumer power supply and switchboards	\$5,635.00	Approved
3	Provision of additional Scour pit, manual & automatic air valves including pits	\$23,168.18	Approved
4	Additional boundary and bypass kits for pressure pumped lines	\$4,790.91	Approved
5	Upgrade simplex unit to duplex unit for the Mooball Hotel	\$8,856.36	Approved
6	Additional construction works as ordered by site instructions	\$2,863.50	Approved
8	Alternative electrical gland connections to control boxes as directed by TSC electricians	\$3,058.18	Approved
9	Supply and installation of galvanised steel bollards at Sewer Pump Station 9003	\$1,834.55	Approved
10	Additional construction works as ordered by site instructions	5,100.23	Approved
11	Revised pipe support bracket to include old Asbestos water main replacement on the Burringbar creek bridge	10,639.21	Approved
13	Remedial works to non compliant consumer power supply and switchboards to enable connection of new pressure pump units	41,724.87	Approved
	TOTAL	\$116,732.81	

The above approved variations have been or will be incorporated into the works.

EC2010-062 Summary of Revised Contract Sum

Original Contract Sum	\$3,275,635.45
Approved Variations	\$116,732.81
Revised Contract Sum	\$3,392,368.26

Based on approved variations to date the revised contract sum for EC2010-062 is \$3,392,368.26 exclusive of GST.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The revised contract sum for EC2010-062 of \$3,392,368.26 is within the original approved budget for Burringbar and Mooball Waste Water Reticulation Construction works.

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
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.7 Deliver Capital Works Program, (only large items listed)
- 2.3.3.7.4 Burringbar/Mooball Sewerage Wastewater Reticulation Construction

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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26 [CNR-CM] Biodiversity Fund LSP-947456-1336 - Linking Koala Habitat and Endangered Ecological Communities

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Tweed Shire Council has been offered a Biodiversity Fund grant of \$2,017,000 (ex GST) from the Department of Sustainability, Environment, Water, Population and Communities for the project Linking Koala Habitat and Endangered Ecological Communities. The project covers work in both Tweed and Byron Shire local government areas. Auspiced by Tweed Shire Council, Byron Shire Council will undertake work in their own local government area.

In accordance with the application, Council's contribution to the project consists of some staff and administrative support plus \$100,000 over four years leveraged from Council's Biodiversity Grant Program. Taking into account the contributions of all project partners, including landholders, the total value of the project is estimated to exceed \$3,600,000.

The purpose of this report is to seek Council's approval to accept the Biodiversity Fund grant.

RECOMMENDATION:

That Council:

- 1. Accepts the Biodiversity Fund LSP-947456-1336 – Linking Koala Habitat and Endangered Ecological Communities grant from the Federal Department of Sustainability, Environment, Water, Population and Communities for the amount of \$2,017,000 exclusive of GST.**
- 2. Votes the expenditure.**

REPORT:

Tweed Shire Council has been offered a Biodiversity Fund grant of \$2,017,000 (ex GST) from the Department of Sustainability, Environment, Water, Population and Communities for the project Linking Koala Habitat and Endangered Ecological Communities. The project covers work in both Tweed and Byron Shire local government areas. Auspiced by Tweed Shire Council, Byron Shire Council will undertake work in their own local government area.

The project will implement critical on-ground and educational actions arising from the Tweed Coast and Byron Coast Koala Habitat Studies 2011(T&BCKHS) and the Comprehensive Koala Plans of Management currently in preparation to improve the security of a future for Koalas on the NSW far north coast and foster a sense of stewardship with landholders and the broader community. Specific actions will include:

1. Restoration of existing Koala habitat and ecological communities listed as Endangered under the NSW *Threatened Species Conservation Act 1995* and the Federal *Environment Protection and Biodiversity Conservation Act 1999*.
2. Connecting fragmented habitats through revegetation on private and public land.
3. Improved fire management and a decrease in fire frequency, particularly in Koala habitat and fire sensitive vegetation communities.
4. Reduced threats to vulnerable flora and fauna posed by invasive vertebrate pest species.
5. Provision of training for two indigenous youth.

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 project will be overseen by a steering committee consisting of representatives of both Councils, Friends of the Koala Inc., Tweed Landcare Inc., Brunswick Valley LandCare Inc., National Parks and Wildlife Service, Northern Rivers Catchment Management Authority, Northern Rivers Biodiversity and Fire Consortium and Livestock Health and Pest Authority.

In accordance with the application, Council's contribution to the project consists of in kind staff and administrative support plus \$100,000 over four years leveraged from Council's Biodiversity Grant Program. Byron Shire Council has committed a commensurate level of in-kind support. Taking into account the contributions of all project partners, including landholders, the total value of the project is estimated to exceed \$3,600,000.

A copy of the letter from is reproduced below for Councillors' information:



The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

B12/521

Mr David Oxenham
P.O. Box 816
MURWILLUMBAH NSW 2484

Dear Mr Oxenham

Biodiversity Fund – Round One

I am pleased to advise your application for grant funding under round one of the Biodiversity Fund has been successful. Funding up to a maximum of \$2,017,000 GST exclusive, will be provided to Tweed Shire Council to implement the project *Linking Koala Habitat & Endangered Ecological Communities*

The projects funded by the Gillard Government in this round have potential to deliver significant outcomes for landscape resilience and biodiversity connectivity and will make a considerable contribution to our transition to a clean energy future.

The Department of Sustainability, Environment, Water, Population and Communities will be in touch with you shortly to progress funding and contractual arrangements.

Congratulations on your application and I look forward to hearing about the outcomes of your proposal as your work is taken forward.

Yours sincerely

Tony Burke

GILLARD - GENERAL
BIO DIVERSITY PROGRAM

TWEED SHIRE COUNCIL
FILE No: KOALA MANAGEMENT
ECC. No:
RECD: 14 MAY 2012
ASSIGNED TO: OXENHAM, D
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

OPTIONS:

1. That Council accepts the Biodiversity Fund \$2,017,000 (ex GST) grant from the Department of Sustainability, Environment, Water, Population and Communities for the project Linking Koala Habitat and Endangered Ecological Communities.
2. That Council does not accept the Biodiversity Fund \$2,017,000 (ex GST) grant from the Department of Sustainability, Environment, Water, Population and Communities for the project Linking Koala Habitat and Endangered Ecological Communities.

CONCLUSION:

The project will complement other natural resource management initiatives of the Councils, community groups, individual landholders, and State agencies and will contribute significantly to the implementation of the Tweed Coast Koala Plan of Management currently under preparation.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

\$100,000 over four years will be contributed to the project from Council's Biodiversity Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.1 Promote the protection of native vegetation and wildlife habitat of high conservation value, social or cultural significance in Tweed Shire
- 4.2.1.4 Koala habitat management
- 4.2.1.4.1 Preparation and implementation of Tweed coast Koala Plan of Management

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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

SUBMITTED BY: Natural Resource Management

FILE REFERENCE:



Civic Leadership



Caring for the Environment

SUMMARY OF REPORT:

In recent years, the Department of Planning and Infrastructure ("DP&I") has approved Concept Plans for two of the largest land developments in the shire; Kings Forest and Cobaki. As both developments are situated in environmentally sensitive areas, it has been necessary for DP&I (as the consent authority) to require the preparation and implementation of numerous management plans designed to mitigate the impacts of the development during construction, and manage ongoing pressures placed on the natural environment from large-scale urban development (eg. weeds, feral animals, threatened species management, bush fire, dumping, encroachment, road mortality, water quality etc). The proponent also seeks to dedicate large areas of environmental land to Council. A major concern for Council is the ongoing long-term costs of managing the impacts of these developments on the environmental lands within and around the development footprints.

To minimise the cost to existing ratepayers, Council have consistently sought to ensure that the proponent accepts responsibility for the ongoing management of these areas, whether or not they are dedicated to Council.

The purpose of this report is to update Council on the progress in resolving these important issues and seek further guidance to ensure that unreasonable financial burdens are not placed on existing ratepayers.

RECOMMENDATION:

That:

- 1. Council advises the Department of Planning and Infrastructure that Council does not have the resources to fund long-term management of environmental lands at Kings Forest and Cobaki, and request that arrangements are made to include these areas in the National Park estate and ensure they are managed accordingly.**
- 2. In the event that (1) above is not possible, Council accepts environmental lands proposed for dedication to Council at Kings Forest and Cobaki, but only if**

suitable arrangements are made to ensure that the costs of long-term management are covered by the proponent or the development itself.

- 3. Where Council is the consent authority, it engages an independent consultant to cost all revised environmental management plans including yearly costs up to 5 years under the control of the proponent and thereafter on an annual maintenance schedule under the control of Council.**
- 4. Where the Department of Planning and Infrastructure is the consent authority Council requests the Department of Planning and Infrastructure to engage an independent consultant to cost all revised environmental management plans including yearly costs up to 5 years under the control of the proponent and thereafter on an annual maintenance schedule under the control of Council.**
- 5. Conditions be imposed to ensure the proponent assumes responsibility for the implementation of the environmental management plans arising from the development approvals (including any necessary revisions) at Kings Forest and Cobaki for a period of 5 years or until 90% of lots are sold, or until completion criteria has been met, whichever is longer. After this time, Council will assume management responsibility for the dedicated areas in accordance with Recommendation 2 above.**
- 6. Council investigates the proposal of a special rate above the notional yield under Section 495 of the Local Government Act 1993, to apply to properties within both Kings Forest and Cobaki development sites, seeking to substantially cover the ongoing environmental management of the land dedicated to Council under the revised management plans.**
- 7. Any shortfall in the funds required to support ongoing management of all environmental lands at Kings Forest and Cobaki is to be provided by the proponent in the form of a sinking fund in favour of Council that allows sufficient returns to cover the shortfall and Consumer Price Index (CPI). For each development the fund is to be secured by bank guarantee and established through Voluntary Planning Agreement prior to commencement of the development.**
- 8. Should the application for a special rate be unsuccessful, the proponent will be responsible for ensuring funding in perpetuity after the period of their management control (nominally 5 years) of all environmental lands within the Kings Forest and Cobaki developments.**

REPORT:

At its meeting of 24 January 2012, Council resolved to submit detailed comments to the Department of Planning and Infrastructure ("DP&I") in relation to the Stage 1 Project Application for Kings Forest. Among the issues addressed was the lack of clarity regarding dedication of environmental lands and arrangements for their ongoing management and maintenance. These comments followed concerns expressed at the earlier Concept Plan stage for Kings Forest and similar concerns with the Cobaki development.

A major concern for Council is the ongoing long-term management costs which are likely to represent a significant and perpetual burden on Council resources beyond any funds that can be generated from a larger rate base. Because of their large size, location in environmentally sensitive areas and the complexity of environmental issues to be managed it has been necessary for DP&I, as the consent authority to require the preparation and implementation of numerous management plans designed to mitigate the impacts of the development during construction, and manage ongoing pressures placed on the natural environment from large-scale urban development (eg. weeds, feral animals, threatened species management, bush fire, dumping, encroachment, road mortality, water quality etc).

Over recent months Council Officers have had numerous discussions with the DP&I and the proponent.

The purpose of this report is to update Council on the progress in resolving these important issues and seek further guidance to ensure that unreasonable financial burdens are not placed on existing ratepayers.

Dedication of Environmental Lands

Kings Forest

At Kings Forest the proponent, in its Stage 1 Project Application foreshadowed the dedication to Council of some 209 ha of environmental lands (154 ha, see p19 of Environmental Assessment for Kings Forest Stage 1 Project Application) and associated ecological buffers (54ha, see Table 1 and 2 Appendix MM and Table 1 Appendix NN of Environmental Assessment for Kings Forest Stage 1 Project Application) but proposed to delay transfer until future stages of the development (see Figure 1).

Due to the large scale of the development, uncertainties around timing and viability of future stages and possible changes in ownership it was considered in the public interest to ensure that any dedications are more closely linked to specific stages of the development.

In its submission to DP&I on the Stage 1 Project Application, Council (see Council Report of 24 January 2012) recommended the following:

"RECOMMENDATION: The Staging Plan for dedication of environmental lands to Tweed Shire Council should be reviewed and appropriately conditioned on the basis of the following principles:

- (1) dedication should occur as soon as practical after subdivision;*
- (2) the extent of lands to be dedicated should include any environmental protection areas adjacent to the proposed stage extending to where*

such areas are intersected by any approved road alignment or adjoin environmental buffers to adjacent stages;

(3) environmental buffers directly adjacent to a proposed stage should be dedicated with the approval of that stage; and

(4) buffers to adjacent stages to be dedicated with the approval of those stages."



Figure 1 Areas proposed for dedication at Kings Forest (does not include approximately 55ha of ecological buffers)

The Project Application also proposed the use of a Voluntary Planning Agreement (VPA) under s93 of the *Environmental Planning and Assessment Act 1979* to guide dedication and management of open space and environmental lands.

Council agreed that this was an appropriate mechanism but recommended that such an agreement be finalised prior to the approval of Stage 1 of the development. This was to ensure that an approval is not given that effectively imposes an unreasonable burden on existing ratepayers, or which prevents the implementation of works approved under one or more of the management plans that form part of the development consent.

In response to recent discussions on the issue of land dedication at Kings Forest the proponent states the following:

- "1. Leda will enter into good faith negotiations with Council with the objective of entering into a Voluntary Planning Agreement. The land will only be dedicated under the terms of such an Agreement.*
- 2. The land will be revegetated/remediated and dedicated on a staged basis as soon as practical after adjacent subdivision has been approved, or earlier subject to agreement between the parties*
- 3. The extent of the land to be dedicated in each stage must:*
 - be capable of forming a surveyed portion;*
 - be agreed to by the parties; and*
 - include any related environmental buffers.*
- 4. Where the land and related buffers is dedicated prior to the approval of adjacent urban subdivision, any remnant small portions of land that result from subsequent urban design shall also be dedicated to Council."*

(Source: information provided at the meeting between Council officers, representatives of the Proponent and Department of Planning and Infrastructure, 29 May 2012).

On this issue the positions of both Council and the proponent appear to be essentially consistent suggesting that with further negotiations a suitable agreement can be reached.

It should be noted however that the timing of such an Agreement has not yet been discussed in detail or agreed. As recommended in the Council report of 24 January 2012 it is considered essential that any VPA is finalised prior to approval of Stage 1 of the development.

Cobaki

Although dedication of approximately 194ha of environmental lands to Council had been committed to in the approved Concept Plan for Cobaki (see Concept Approval for Cobaki), the proponent elected to retain ownership and responsibility for management, of approximately 123 ha of environmental lands in response to Council's assertion that the proponent should provide for the ongoing management of these areas on dedication.

Subsequently, development approval was given to the subdivision of Precincts 1, 2 and 6 (determined by the Joint Regional Planning Panel) subject to conditions which included a requirement for the proponent to identify:

a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection lands not proposed to be dedicated to Council.

More recently the proponent has acknowledged that their retention and ongoing management of environmental lands arising from the development may not be a long-term solution and suggest that the environmental lands could be dedicated to Council on mutually

acceptable terms (meetings between the proponent and Council officers on 24 May and 7 July 2012).

Although there are a number of cogent arguments in favour of vesting environmental lands in public ownership (community benefit, stable administrative structure geared to management of public goods, expertise in natural resource management etc) the substantive issue for Council is to ensure that such areas are appropriately managed irrespective of ownership.

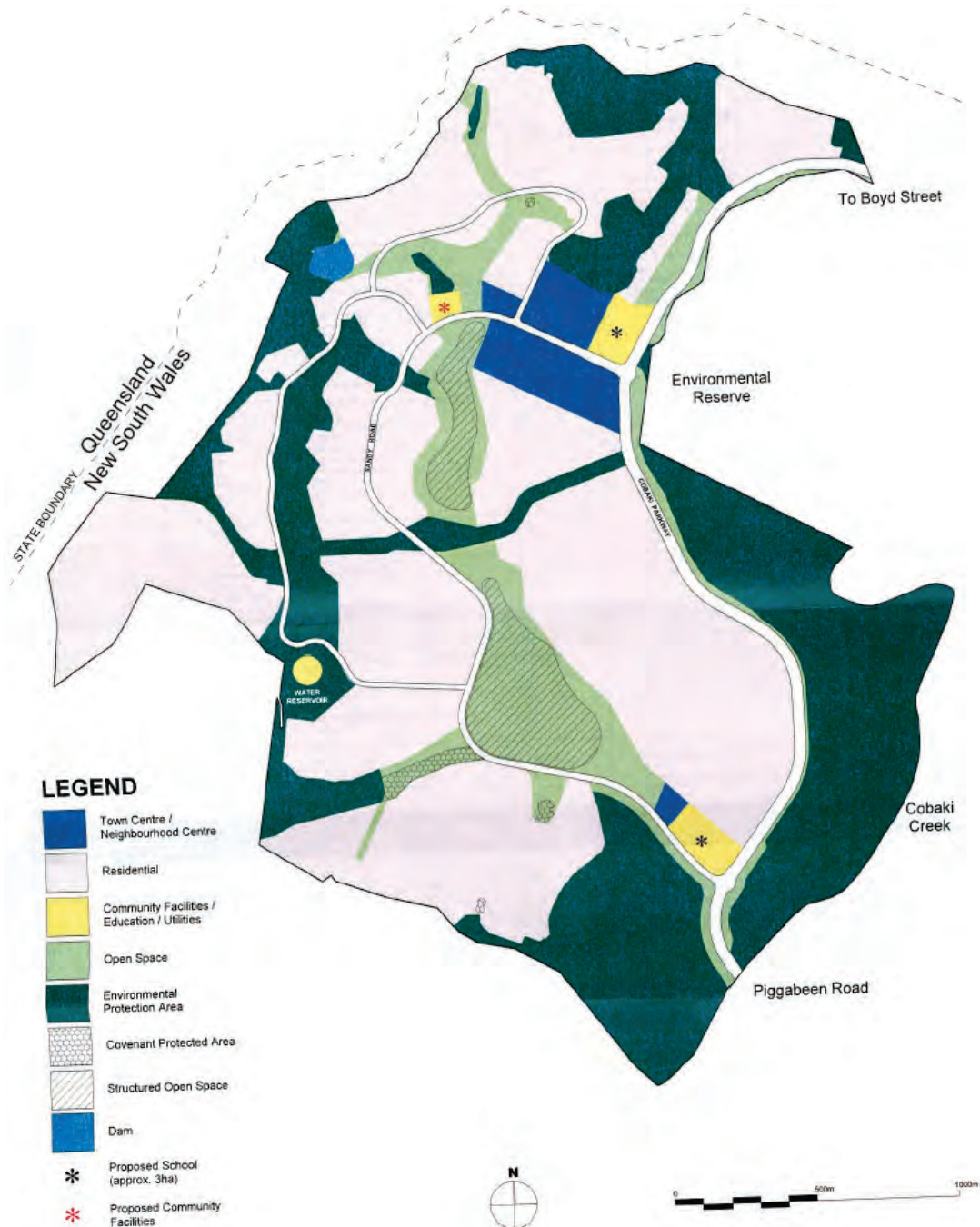


Figure 2 Concept Plan showing Extent of Environmental Lands for Cobaki

Ongoing Management and Maintenance

As noted previously both of these developments are located in environmentally sensitive areas, a fact which is reflected in the approved Concept Plans and subsequent development consents. The Director General's Requirements ("DGRs") for both developments required (among other things) the proponent to:

- *Demonstrate that the development footprint will not adversely impact on native flora and fauna.*
- Put measures in place to *ensure there is no net loss of native vegetation values.*

In order to meet these requirements the Concept Plan and development approvals rely on the implementation of a large number of environmental management plans some of which are listed below.

Kings Forest

- Koala Plan of Management.
- Bush Fire Risk Assessment.
- Acid Sulfate Soils Assessment.
- Site Based Management Plan.
- Overall Water Management Plan.
- Stormwater Management Plan.
- Erosion and Sediment Control Plan.
- Buffer Management Plan - Precincts 1 & 5.
- Buffer Management Plan - Precincts 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 & 14.
- Feral Animal Management Plan.
- Weed Management Plan - Precincts 1 & 5.
- Weed Management Plans - Precincts 2, 3, 4, 6, 7, 8, 9, 10 & 11 and Precincts 12, 13 & 14.
- Threatened Species Management Plan - Precincts 1 & 5.
- Threatened Species Management Plans - Precincts 2, 3, 4, 6, 7, 8, 9, 10 & 11 and Precincts 12, 13 & 14.
- Vegetation Management Plan - Precincts 1 & 5.
- Vegetation Management Plans - Precincts 2, 3, 4, 6, 7, 8, 9, 10 & 11 and Precincts 12, 13 & 14.

Cobaki

- Site Regeneration and Revegetation Management Plan - then specific management plans for each of the 13 rehabilitation management precincts as stages of the development progress.
- Vegetation Management Plan.

- Fauna Management Plan.
- Freshwater Wetland Rehabilitation Plan.
- Wallum Froglet Compensatory Habitat Management Plan.
- Buffer Management Plan.
- Draft Outline of the Flora and Fauna Monitoring Program.
- Construction Environment Management Plan.
- Saltmarsh Rehabilitation Plan.
- Long-nosed Potoroo Management Plan.
- Acid Sulfate Soils Management Plan.
- Groundwater Management Plan.
- Stormwater Management Plan.
- Erosion and Sediment Control Plan.
- Biting Midge and Mosquito Control Management Plan.
- Cultural Heritage Management Plan.

Although these and other plans form part of the approvals granted for the developments most have not been finalised or signed off by the relevant authorities including Council. Further to this, and as detailed in the Council report of 24 January for the Kings Forest Stage 1 Project Application, the draft plans typically lack clear implementation schedules making it impossible to determine the timing, location, frequency and responsibilities for action, resources required, costs involved, measurable performance criteria, and expected outcomes.

Apart from hampering the ability of Council staff to provide meaningful and constructive comment on the merits of actions proposed (or omitted) from the Plans, this lack of clarity has also prevented a clear understanding of the costs involved in re-establishing habitats to an acceptable standard and maintaining that standard in the face of considerable ongoing pressures arising from the developments (eg. weed invasion, feral animals, bush fire, dumping, encroachment, vandalism, road mortality, water quality, maintenance of green infrastructure such as wildlife underpasses, corridors, fauna fencing, drainage swales, signage etc). There are also significant costs associated with community education, monitoring and ongoing review of the management plans.

As noted previously in relation to Cobaki, the development approval for the subdivision of Precincts 1, 2 and 6 (determined by the Joint Regional Planning Panel) require the proponent to identify a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection lands. Similarly, at Kings Forest DGR 2.5 requires the proponent to:

"Outline the long-term management and maintenance of any areas of open space or conservation including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management. "

Council, in its submission to the Kings Forest Stage 1 Project Application, pointed out that the proponent appears to assume that after an initial habitat establishment period (perhaps 5 years) the costs and responsibility for ongoing (i.e. long-term) maintenance and management will fall to Council and that this will represent a perpetual burden on Council resources beyond any funds that can be generated from a larger rate base (see Council report of 24 January 2012).

Notwithstanding the need to finalise the Management Plans the main issues of contention between the proponent and Council relate to the costs and responsibilities for (1) the habitat establishment period and (2) the ongoing habitat maintenance period.

Habitat Establishment Period

In relation to Kings Forest, Council's recommendation to the DP&I was:

"That conditions be imposed to ensure the proponent assumes responsibility for the implementation of the environmental management plans arising from this project application (including any necessary revisions) for a period of 5 years, or until 90% of lots are sold, or until completion criteria have been met, whichever is longer. After this time council will assume management responsibility for the dedicated areas."

(It should be noted that although Council has agreed to assume management responsibility after the establishment period, it is expected that the proponent will make provision in accordance with DGR 2.5 to fund this work).

The proponent's position on this is as follows:

The land in each stage will be revegetated/remediated by Leda, at its expense, until agreed completion criteria have been met:

- *It is anticipated that this will occur between three and five years after revegetation/remediation commences;*
- *The completion criteria contained in the various Management Plans submitted to date require further specification;*
- *Whether completion criteria have been met will be determined by an agreed third party.*

(Source: information provided at the meeting between Council officers, representatives of the Proponent and Department of Planning and Infrastructure, 29 May 2012).

The proponent's proposition in relation to Kings Forest differs from Council's in that it is based solely on meeting yet unspecified completion criteria whereas Council seeks to ensure that the proponent is financially responsible for managing the site until there is substantial initial take-up of lots within each stage of the development.

Nonetheless the proponent's proposition has merit if (1) adequate funding can be derived through the proponent to cover ongoing management costs (see below), (2) agreed completion criteria are included in the finalised management plans, and (3) that all

completion criteria relating to specific areas across all Management Plans are met before any transfer of responsibilities.

In relation to the third point above it should be noted that although the proponent anticipates that completion criteria could be met within three years, this will almost certainly not occur for many of the areas that require the re-establishment of forested vegetation, wildlife corridors or koala food trees. So while some components of the Management Plans could be completed before others it is considered impractical and unworkable to create a situation with divided responsibilities between Council and the proponent over the same areas (eg. Council managing weed control and bush fire in areas of heathland regeneration while the proponent manages wallum froglet habitat, the koala population and feral animal issues over essentially the same areas).

At Cobaki, the development approvals for the subdivision of Precincts 1, 2 and 6 (determined by the Joint Regional Planning Panel) require the proponent include within the various environmental management plans:

"A statement of commitment by the consent holder to funding the proposed works for a minimum 5 year period."

The proponent has sought to reduce this commitment to 3 years on the basis that it may be possible to meet, yet to be agreed, completion criteria. As noted above, the issues related to the time required to revegetate certain areas and the need to ensure that all completion criteria are met for specific areas apply equally at Cobaki. Accordingly, it is considered that the existing condition should stand.

Ongoing Habitat Maintenance

In relation to ongoing management (after an initial establishment period), the proponent holds that this should be a Council responsibility which should be funded from the rates paid by all landholders in the Shire, and that the developments will make a considerable contribution to the overall rate income which should be sufficient to cover the long-term management costs.

On the other hand Council maintains that that the need for ongoing management at these sites:

- derives directly from pressures placed on the natural environment from locating large-scale urban development in such environmentally sensitive areas;
- is reflected in the approvals process;
- is consistent with the principles of Ecologically Sustainable Development; and
- is consistent with Council's stated desire to properly protect and manage the shire's unique biodiversity and natural resources (eg. see Tweed Shire Community Strategic Plan 2011/2021).

In addition, unlike many of the other urban developments that have occurred over the last decade, both developments are large enough to be self-contained, and the provision of

environmental open space is an integral component of both developments (eg. see the Executive Summaries in both the Kings Forest and Cobaki Concept Plans).

The other important issue for Council is that it has limited capacity to fund these long-term management obligations from traditional sources due to State-imposed caps on developer contributions and rates. This means that unless additional sources of funding are found the long term obligations arising from these two developments could only be achieved by shire-wide reductions in services such as roads and parks maintenance, environmental management and community services.

Costs of Ongoing Management and Maintenance

Council has recently commissioned a study to prioritise and estimate costs associated with the bushland management in urban and peri-urban areas of Tweed and Byron Shires (Tweed Byron Bushland Audit; BRS 2010). Depending on the type and severity of issues involved the audit estimated costs ranging from \$1,920 to \$49,920 per hectare per year for primary and follow-up bushland restoration works tapering to around \$1920 per hectare per year for maintenance after year six (see Table below). This study was carried out by the two largest and most experienced bushland management firms operating on the NSW Far North Coast, Bushland Restoration Services and EnviTE and is based on labour costs consistent with Australian Association of Bush Regenerators (AABR) recommendations. By comparison, estimates used by Gold Coast City Council average \$7500 per hectare per year but they do not discriminate between establishment and maintenance costs.

Bush Regeneration is the rehabilitation of bush from a weed affected or otherwise degraded area to a healthier community of native plants and animals. The aim is to restore and maintain ecosystem health by helping the natural regeneration of indigenous plants. This is usually done by reducing the effect of weeds and things like erosion and soil disturbance. It requires extensive and specialist knowledge of plant species (including Threatened species), the makeup and functioning of ecological communities and specialised techniques for weed control. Unlike general farm management, bushland restoration is often conducted in very sensitive natural ecosystems, requires special licences, recognised qualifications and very careful attention to detail usually with only hand tools and backpack sprayers.

Implementation of over \$3,000,000 worth of bushland restoration works through various grant and Council funded projects over the last few years suggest that the bushland audit cost estimates tend to be low. This may be because many firms operating in the area are now charging in excess of the AABR labour rates, possibly reflecting skilled labour supply issues and complexities arising in this region from the need to more carefully manage numerous Threatened communities, populations and species in the face of rapidly expanding urban populations.

Notwithstanding the estimates above, it is essential to note that these bushland audit estimates do not include costs associated with many of the other specific actions arising from the approved Management Plans for the Kings Forest and Cobaki developments including the following:

- project management and administration;
- feral animal control;
- monitoring and reporting;
- community consultation and education;

- revegetation (plantings);
- bush fire management;
- maintenance of infrastructure such as fauna fencing, underpasses, grids;
- policing of dog and cat bans and;
- other actions required to manage individual Threatened species.

As noted previously, the various management plans do not contain costings or detailed implementation schedules to enable Council to precisely (or approximately) estimate the total maintenance burden for the long-term implementation of works required. It is considered essential that this work be commissioned and a mechanism to fund such works in perpetuity be agreed to prior to commencement of the development.

Notwithstanding the need to more precisely estimate the costs involved, on the basis of the estimates presented in the Bushland Audit and additional allowances for other items not covered (noted above) it is likely that the annual maintenance cost for the management of environmental lands would be in the vicinity of \$3000 per hectare per year.

For Kings Forest, assuming 154 ha of environmental protection areas (see EA p19) and 55 ha of environmental buffers not "lost" (see Table 1 and 2 Appendix MM, Table 1 Appendix NN) this amounts to an approximate maintenance cost of \$627,000 per year over the entire development. Similar calculations for 194ha for of environmental lands at Cobaki would suggest \$582,000 per year.

Table: Cost Estimates from Tweed Byron Bushland Audit

Table 2 Tweed Byron Audit Bushland Audit Management Intensity Classes, Criteria and Annual Restoration Cost Estimates - Revision 1

Revised Management Intensity Class #	Management Intensity Class Description	Criteria	Years Till Lowest Level Maintenance attained	Frequency of visitation Year 1	Costing Estimates						Total Cost \$ / ha till Maintenance attained	Average Annual Cost \$ / ha until maintenance attained	
					Year1 - Restoration Cost \$ / ha / yr	Year 2 - Restoration Cost \$ / ha / yr	Year 3 - Restoration Cost \$ / ha / yr	Year 4 - Restoration Cost \$ / ha / yr	Year 5 - Restoration Cost \$ / ha / yr	Year 6 - Restoration Cost \$ / ha / yr			
1	Maintenance - 1	Occasional occurrence of minor weed problems < 5 % of MU lowest level of visitation required	1	Once every 6 months	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	
2	Maintenance - 2	Occasional occurrence of minor weed problems < 5 % of MU low visitation required	2	Once every 4 months	2,880	1,920	1,920	1,920	1,920	1,920	1,920	4,800	2400
3	Low - 1	Occurrence of minor weed threats <20 % of MU	3	Once every 3 months	3,840	3,840	1,920	1,920	1,920	1,920	1,920	9,600	3,200
4	Low - 2	Occurrence of major weed threats <20 % of MU	3	Once every 10 weeks	4,992	4,992	1,920	1,920	1,920	1,920	1,920	11,904	3,968
5	Standard - 1	Occurrence of some severe weed issues in any of the strata < 50 % of site	4	Once every 2 months	5,760	5,760	3,840	1,920	1,920	1,920	1,920	17,280	4,320
6	Standard - 2	Occurrence of some severe weed issues in any of the strata < 50 % of site	4	Once every 6 weeks	8,320	5,760	3,840	1,920	1,920	1,920	1,920	19,840	4,960
7	High - 1	Occurrence of several severe weed issues in any of the strata levels > 50 % (but less than High 2)	5	Once every 4 weeks	12,480	5,760	3,840	2,880	1,920	1,920	1,920	26,880	5,376
8	High - 2	Occurrence of several severe weed issues in any of the strata levels > 50 %	5	Once every 3 weeks	16,640	8,640	5,760	3,840	1,920	1,920	1,920	36,800	7,360
9	Very High - 1	Dominance of below weeds in all or any of the strata > 80 % Canopy Exotic scramblers / Vine Weeds Madeira, Cats Claw, Climbing asparagus OR dominance of Tree Weeds Camphor and both privets: Mid storey-Dominance of small shrubs Ochna, Lantana, Cherry Guava, Senna; Ground Dominance of Ground cover i.e. ground asparagus, Trad, Glory lilly.	5	Once every 5 fortnight	24,960	17,280	8,640	5,760	1,920	1,920	1,920	58,560	11,712
10	Very High - 2	Dominance of below weeds in all or any of the strata > 80 % Canopy Exotic scramblers / Vine Weeds Madeira, Cats Claw, Climbing asparagus AND dominance of Tree Weeds Camphor and both privets: Mid storey-Dominance of small shrubs Ochna, Lantana, Cherry Guava, Senna; Ground Dominance of Ground cover i.e. ground asparagus, Trad, Glory lilly.	6	Once every 6 week	49,920	24,960	17,280	8,640	5,760	1,920	1,920	108,480	18,080

Options for Funding Ongoing Bushland Management

Prior and since the completion of the Tweed Byron Bushland Audit, Council officers have considered a number of options for managing bushland arising from urban developments. It is the officers' view that, whatever tenure and funding arrangements are most appropriate, all new urban development bear the costs of associated bushland and bush fire management in the long term.

Whatever the annual environmental management costs may be for Kings Forest and Cobaki, there appear to be only two realistic means of funding this work. Firstly, by the use of a Voluntary Planning Agreement ("VPA") to establish a sinking fund based on a capital contribution from the developer which would use the interest to fund the works. This means the developer meets the full cost of the development but the arrangement is also subject to the vagaries of the investment markets which will inevitably lead to variation in the revenue stream. Such arrangements also need to cover costs of inflation which further increases the capital required. Although VPAs are relatively new various examples of these sorts of agreements exist elsewhere including the example noted in the last section of this report.

The second solution involves the imposition of a Special Rate to cover these costs, such as is the case at Koala Beach, where the environmentally sensitive nature of the development also demanded significant obligations for ongoing management. The main issue with this approach is the reluctance of the State Government to approve rate increases over the approved CPI increases. However, given the State Government approval of the Concept Plan, acknowledgement of the scope of the works necessary to mitigate the impacts of the development, and the clear expectation of long-term management and maintenance, it would appear reasonable to expect support from the State Government to facilitate a mechanism to allow the residents of the proposed estate to contribute to the maintenance of its environmental values.

If the environmental management costs were to be raised by a special rate this would amount to an estimated annual average cost of about \$140 and \$110 for each property at Kings Forest and Cobaki respectively (assumes 4500 properties at Kings Forest and 5300 properties at Cobaki). By comparison, the special levy at Koala Beach amounts to an annual contribution to environmental management of approximately \$100 per property.

Of course, a combination of these two approaches could be used to share the costs between the developer and the future residents of the estates.

In relation to the option favoured by the proponent of using the existing general rate base to fund on-going maintenance works at Cobaki and Kings Forest, it should also be noted that Council currently has very little budget for ongoing bushland maintenance. Apart from resources for bushfire management (app. \$80,000 pa), management of the Koala Beach estate app. (\$70,000pa) and the maintenance of beach accesses, dune fencing and the like (app. \$100,000 pa), most of Council's efforts to prevent degradation of existing bushland areas under its control (app 3000ha) come from external grants and volunteer efforts (Landcare, DuneCare groups etc).

OPTIONS:

1. Council can resolve to support the approach presented by officers which requires the ongoing management cost of environmental land dedicated to Council to be funded by the developer through a VPA and/or a Special Rate.
2. Council can resolve to fund the ongoing management cost of environmental land dedicated to Council through its own rate base.

CONCLUSION:

The proposed urban developments at Kings Forest and Cobaki are both located in environmentally sensitive areas. Due to the complexity of environmental issues to be managed it has been necessary for DP&I, as the consent authority to require the preparation and implementation of numerous management plans designed mitigate the impacts of the development during construction, and manage ongoing pressures placed on the natural environment from large-scale urban development (e.g. weeds, feral animals, threatened species management, bush fire, dumping, encroachment, road mortality, water quality etc). The proponent suggests that Council accepts long term management responsibility of large areas of environmental lands after an initial establishment period (nominally 5 years funded by the proponent).

A major concern for Council is the ongoing long-term management costs which are likely to represent a significant and perpetual burden on Council resources beyond any funds that can be generated from a larger rate base.

It is concluded that Council should only accept these responsibilities if suitable arrangements are made to ensure that the costs of long-term management are covered by the proponent or the development itself.

COUNCIL IMPLICATIONS:

a. Policy:

The recommendations have been guided by the Director General's requirements for the Kings Forest and Cobaki developments, the principles of Ecologically Sustainable Development – specifically the conservation of biodiversity and user/polluter pays principles – and the constraints on Councils budget. A comprehensive policy to address these issues on a broader scale will be brought forward in due course.

b. Budget/Long Term Financial Plan:

Failure to address this issue will result in significant long-term costs which cannot be met from the current budget.

c. Legal:

Not Applicable at this stage.

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

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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28 [CNR-CM] Variations to Contract EC2011-134 Tweed River Sand Extraction and Pipeline Environmental Impact Study

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

This report seeks Councils approval for variations to contract EC2011-134 Tweed River Sand Extraction and Pipeline Environmental Impact Study which was accepted at the Council meeting of 20 September 2011. The recommendation of that report did not specify that variations of up to a specified amount would be delegated to the General Manager.

The Coastal Management Program of the Office of Environment and Heritage provided 50% funding for the original project costs and Council will apply for 50% of the additional costs.

RECOMMENDATION:

That Council

- 1. Accepts the variations from Kellogg Brown Root Pty Ltd to a total of \$101,840 (Exclusive of GST) for EC2011-134 Tweed River Sand Extraction and Pipeline Environmental Impact Study; and**
- 2. The General Manager is given delegated authority to approve additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.**
- 3. Requests financial assistance of 50% of this additional cost from the Coastal Management Program of the Office of Environment and Heritage.**

REPORT:

Council contracted Kellogg Brown Root Pty Ltd ("KBR") to undertake the relevant preliminary operations design and studies for the Tweed River Sand Extraction and Pipeline Environmental Impact Study (EIS) as reported to Council at the meeting of 20 September 2011.

In undertaking the EIS and preliminary operations design work for Area 5, consultant KBR is required by Council to utilise, as far as possible, the existing bank of information obtained during previous studies of the Tweed River. This approach, intended to reduce time and cost of work, was accepted by KBR and considered in the fee proposal by KBR. However, the KBR fee proposal pointed out the possible need for additional work (involving fee variation) if the existing data was not sufficient.

To date four variations have been received from KBR as follows:

Variation No. 1: \$55,800 (excluding GST) - Sediment Sampling - 4 January 2012.

The original KBR proposal allowed for samples of river bed material to be taken at 10 locations with samples being taken from the upper part of the river bed. This would allow a level of information similar to the 1995 Area 5 EIS to be obtained about the samples.

Given the extensive volume of sand proposed to be removed from the river bed, over a large area, in January 2012 KBR recommended to Council the taking of more bed samples than the proposed 10, and that the sampling be done by coring (drilling with a tube) with the corer to pass through the whole body of sand to the deepest proposed dredge level.

The reasons for extra sampling are principally to:

- confirm the marine sand to be removed from the river is similar to the sand found on Kingscliff Beach;
- meet revised testing requirements in regard to Acid Sulfate Soil potential; and
- confirm no issues of chemical contamination in the sand body.

Variation No. 2: \$550 (excluding GST) - Additional laboratory work with reference to Variation No. 1. This variation did not proceed.

Variation No. 3: \$5,040 (excluding GST) - Information Sheet - 28 May 2012.

During consultation with community stakeholder groups by KBR and Council in regard to the Area 5 dredging proposal and alternative pipeline routes, the need for a summary information sheet was identified. Many of the community groups consulted made such a request and a single summary sheet was prepared by KBR with Council input. The summary sheet is to be disseminated to the respective community groups and in response to other community enquiry as an additional communication method.

Variation No. 4: \$40,500 (excluding GST) - River Modelling - 28 May 2012.

The EIS is required to address impacts of river dredging on flood flow, tidal flows, changes in erosion of the river bed and banks, and to determine the extent of sediment movements during dredging operations (dredge silt plume). The original KBR proposal intends to utilise existing data and assumes this is adequate for the purposes. However the Director General's Requirements (Department of Planning) for the EIS assessment of river flow impacts are very specific and it has been found that the modelling completed in 1995 does not adequately address the requirements of 2012 in this regard.

Council's own Tweed River and floodplain flood model will be used to analyse effects of dredging on flooding but it does not define impacts of dredging on tides, channel erosion, or sediment movements. Setting up of a more detailed and localised model is therefore required as specified in KBR's Variation No. 4.

OPTIONS:

1. Council accepts the variations.
2. Council does not accept the variations.

CONCLUSION:

The variations requested reflect additional work not anticipated at the time of the development of the contract brief and are considered necessary to complete the environmental impact study to the appropriate standard.

The original contract award amount was \$129,400 (Exclusive of GST). The revised contract amount is \$231,240 (Exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.
Tweed Shire Coastline Management Plan 2005.

b. Budget/Long Term Financial Plan:

The variation is to come from the Coastline Management Program Budget. An application will be made to the Coastal Management Program of the Office of Environment and Heritage for 50% of the variation costs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 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.

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29 [CNR-CM] Dune Vegetation Vandalism, Marine Parade Kingscliff

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

At the meeting of the Tweed DuneCare Coordinating Committee held on 24 May 2012, a report was tabled of vegetation vandalism in the dune vegetation along Marine Parade, Kingscliff.

The Kingscliff DuneCare Group planted numerous trees in the upper dune foreshore area in 2010. A recent inspection by the group found that most of the planted trees had been broken off or cut off 20 to 30cm from ground level. There are a number of options available to Council to address this most recent vegetation vandalism on the Kingscliff foreshore.

RECOMMENDATION:

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.**

REPORT:

At the meeting of the Tweed DuneCare Coordinating Committee held on 24 May 2012, a report was tabled of vegetation vandalism in the dune vegetation along Marine Parade, Kingscliff.

The Kingscliff DuneCare Group planted numerous trees in the upper dune foreshore area in 2010. A recent inspection by the group found that most of the planted trees had been broken off or cut off 20 to 30cm from ground level. See Plate 3 for an example of cutting of a Banksia tree.

Council greatly values the contribution of volunteer groups in assisting with the ongoing management of public bushland as there is insufficient budget to maintain these areas. Council has also resolved to take a zero tolerance approach where illegal destruction of vegetation has occurred.

In 2000, a large regulatory sign was erected along the foreshore at Kingscliff following vandalism of the foreshore vegetation. The sign was removed by resolution of Council at the meeting of 3 March 2004 following successful regrowth of the vegetation.

***"RESOLVED** that Council removes the tree vegetation vandalism sign fronting the dunes at North Kingscliff. Signs to be reinstated should any further instances of vandalism occur.*

Voting - Unanimous"

At the Council meeting of 6 July 2005, the following was resolved with regard to illegal vegetation clearing in Tweed Shire:

***"RESOLVED** that Council:-*

- 1. Condemns unauthorised destruction of coastal, riparian and native vegetation which is apparently motivated by the objective of providing better access to views or greater development potential of the subject land.*
- 2. All illegal clearing works are to be notified to Council in a timely manner and that appropriate enforcement procedures be taken where such breaches occur.*
- 3. Council erects appropriate screens to cover the cleared areas in foreshore dunes and riparian areas until the restoration works are fully established.*
- 4. Council erects signage on dune and riparian areas where illegal destruction of the vegetation has occurred to advise the general public that Council has a zero tolerance with regard to this issue.*

FOR VOTE - Unanimous"

Recent examples of Council's response to illegal vegetation clearing on public land have included erection of shade screens structures along the SALT and Casuarina foreshores where the people responsible for the vegetation vandalism have not been identified; legal action against a person at Pottsville for foreshore clearing; requiring the adjacent landowner to restore a section of bushland that had been cleared at Fingal Head; and, permanent signage along the dune fence at SALT.

There are a number of options detailed below for Council to address this most recent vegetation vandalism on the Kingscliff foreshore.

Plates 1 and 2 below illustrate where clearing has occurred compared with the vegetation density and type for much of (the not eroded) Kingscliff foreshore.



Plate 1: Kingscliff foreshore where young trees have been deliberately vandalised.



Plate 2: Adjacent area representative of vegetation thickness and type along the length of Kingscliff foreshore.



Plate 3: Young banksias (planted by DuneCare volunteers in 2010) cut off, others were broken off).

OPTIONS:

A range of options are available to Council to raise awareness of the issue of illegal vegetation clearing and assist with the restoration of this site. These include:

- a. Do nothing. This would not be in accordance with Council's adopted decisions of the meetings held 3 March 2004 and 6 July 2005.
- b. Erect large signage that partially obstructs the view and contains a statement on the illegal destruction of dune vegetation. A similar sign was erected in 2000 on the foreshore at Kingscliff and removed in 2004 following successful regrowth of the vegetation.
- c. Erect a shade screen using the infrastructure recently removed from Casuarina foreshore and place advisory signs on this structure. These screens are expensive to erect and maintain and are best used where there has been significant poisoning and/or clearing of mature vegetation.

- d. Fence the foreshore to better delineate beach accesses and discourage unauthorised access into coastal bushland.
- e. Place advisory signs along the foreshore fence as is in place along the fences of the SALT dune foreshore.
- f. Erect surveillance cameras.
- g. Letter box drop information brochures on the value of coastal dune vegetation and advise, by letter, all landowners of properties in the vicinity of the vandalised vegetation of penalties and consequences for unauthorised destruction of vegetation on Crown or Council land.
- h. Increase awareness of Council's zero tolerance to illegal vegetation clearing through media releases and stories in the Tweed Link.
- i. Support replanting of the area by Kingscliff DuneCare Group.
- j. A combination of any of the above b. to i. inclusive.

CONCLUSION:

Council has resolved on several occasions to erect signage and/or shade screens when there has been deliberate vandalism of native vegetation on public land.

In this instance, it is considered that this is a relatively minor impact event and the trimmed trees will regrow. It is considered that acknowledgment of the vandalism to local residents and raised awareness is important in this instance as well as support for the Kingscliff DuneCare Group is demonstrated. Therefore, it is recommended that the following combination of actions be undertaken to demonstrate Council's support for the DuneCare volunteers working on public land and reiterate Council's zero tolerance to illegal destruction of vegetation:

1. Writes to the property owners in Marine Parade, Kingscliff advising of recent vegetation vandalism on Kingscliff foreshore and advising that this activity is illegal and requesting that anyone with information on the most recent clearing to bring this forward to Council. The letter shall advise that any further vandalism may result in Council taking further 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 advice 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.

Note that the above recommendations were supported by the Tweed Coastal Committee at its meeting of 13 June 2012.

COUNCIL IMPLICATIONS:

a. Policy:

Tweed Shire Coastline Management Plan, 2005.

b. Budget/Long Term Financial Plan:

Cost for any works, signage, revegetation and maintenance will come from the Coastal Bushland budget of the Natural Resource Management Section.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.1 Retain open space and greenbelts for conservation and for all people to enjoy
- 4.1.1.4 Council bushland management compliance
- 4.1.1.4.1 Respond to bushland compliance issues as necessary
- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.4 Promote and encourage partnerships between the community and governments through consultation and participation
- 4.2.4.3 Landcare and DuneCare groups
- 4.2.4.3.1 Support DuneCare and Landcare volunteers

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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30 [CNR-CM] Jack Bayliss Park - Strategy for Coastal Erosion

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

At the Council meeting of 17 April 2012, the following resolution was passed:

*"**RESOLVED** that in light of Council's present planned retreat approach to the Jack Bayliss Park area at Kingscliff that:*

- 1. Council brings forward a report on the approximate value of this entire section of land from Kingscliff Bowls Club to North Kingscliff Caravan Park.*
- 2. The community to be informed of what planned retreat actually means through an article in the Tweed Link.*
- 3. Council also brings forward a report on the approximate cost of the installation of a similar rock wall as used south of the Cudgen Surf Club to give some protection to this parkland and infrastructure."*

This report provides information and comment on the above resolution.

RECOMMENDATION:

That the report on Jack Bayliss Park - Strategy for Coastal Erosion be received and noted.

REPORT:

At the Council meeting of 17 April 2012, the following resolution was passed:

"RESOLVED that in light of Council's present planned retreat approach to the Jack Bayliss Park area at Kingscliff that:

1. Council brings forward a report on the approximate value of this entire section of land from Kingscliff Bowls Club to North Kingscliff Caravan Park.
2. The community to be informed of what planned retreat actually means through an article in the Tweed Link.
3. Council also brings forward a report on the approximate cost of the installation of a similar rock wall as used south of the Cudgen Surf Club to give some protection to this parkland and infrastructure."

1. The subject area of Crown land comprises the grassed land area seaward of Marine Parade. This area is referred to as "Coastal Recreation Strip" in Council's land valuation database. The database provides the land value for this area based upon the Valuer General's valuations.

For the subject land the land value as of 1 July 2012 is \$4,500,000. Given that the land has minimal development potential and is not able to be sold, the basis for this valuation is unknown. The main value of the land is as a community recreation and amenity asset.

2. Council is currently undertaking preparation of a Coastal Zone Management Plan ("CZMP") for Kingscliff Beach and foreshore to develop future management options. This action is consistent with the NSW Government's Coastal policy and is actively supported by the NSW Coastal Panel that advises the NSW Minister for the Environment.

As part of the CZMP preparation Council is currently updating the hazard assessment for the Kingscliff foreshore. This update will identify the natural processes and hazards they present to the foreshore, as well as the processes that have led to the chronic erosion of recent years.

Management options are also being developed and their benefits and costs (including social benefit/costs) will be determined. This will be followed by assembly of a management options report that will be the basis for consultation with community and Council.

Included in the options report will be 'Planned Retreat'. The community will have an opportunity to gain a thorough understanding of the nature of this option, and to make their views known to Council.

The options report is scheduled to be available in early 2013, with community consultation to begin shortly thereafter.

3. Seawalls of the type installed south of the Cudgen Headland Surf Lifesaving Club (and to the north) are considered temporary because they are not specifically designed to resist particular wave attack conditions and they have unknown resistance qualities. Generally the larger and higher the walls are, the more effective they will be in protecting the land behind them in the longer term.

The wall south of the surf club has a relatively low crest (top) level at around 2.5 metres AHD. A properly designed seawall in this location would be five or six metres AHD (the height of the wall in front of the Kingscliff Beach Club). Lower walls would most likely be overtopped by increased wave heights on higher tides and will not guarantee protection in the longer term or under high wave attack. The current wall has been reasonably successful in the short term as it is in the relatively protected southern portion of the beach embayment which is generally more stable with sufficient sand to buffer against wave attack most of the time.

If a seawall of crest level 2.5 metres were installed north of the Bowling Club it would cost in the order of \$2,000,000 (2000 metres at \$1000 per metre) and would offer minimal protection only. Large events, such as that seen in early June, would effectively demolish a low seawall. This section of coastline is much more prone to wave attack more frequently due to the distance from the Cudgen Creek training walls and exposure to a greater range of swell directions.

Installation of such a wall would be inconsistent with the NSW Government's policy and would require consent from the NSW Coastal Panel unless constructed as part of a certified and gazetted Coastal Zone Management Plan. This is mainly because seawalls, if unaccompanied by a beach nourishment scheme over the long term, are known to cause a more rapid loss of sand from the beach during erosion events, and they also intrude on the natural beach amenity.

OPTIONS:

This report is for receipt and noting.

CONCLUSION:

Council is undertaking detailed studies which will assist in the determination of the appropriate management strategies for Kingscliff foreshore in the long term. These studies will provide the basis for development of a Coastal Zone Management Plan for Kingscliff.

COUNCIL IMPLICATIONS:

a. Policy:

Tweed Shire Coastline Management Plan, 2005.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.4 Prepare, review and implement coastal zone and catchment management plans
- 4.1.2.4.1 Review and implementation of Tweed Coastline Coastal Zone Management Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

31 [CNR-CM] River Health Grants

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

This report provides Council with details of proposed investments in river and riparian management, through implementation of the River Health Grants Program. The goal of this project is to improve the quality of Tweed Waterways by subsidising works on private properties, for example by revegetation, weed control and provision of off stream water for cattle. In the case of one of the grants proposed in this report, works will improve effluent management on a dairy farm at Burringbar. The source of funding for this program is the Water Unit mandatory dividend for water and sewerage.

RECOMMENDATION:

That Council approves the proposed River Health Grants included within this report.

REPORT:

Since June 2006, Tweed Shire Council has worked with riparian landowners to initiate projects which protect and improve water quality and stream bank condition. The goal of this program is to enhance the environmental condition of Tweed waterways, improve the water quality of raw water extracted for treatment at Bray Park.

The River Health Grants Program has been successful in attracting a diverse range of landholders, from traditional farmers to rural lifestyle property owners. Projects included for endorsement through this report will provide positive outcomes in the restoration of tributaries to the Oxley and Tweed Rivers and Burringbar Creek.

In each case of funding, an agreement with landholders will be signed that details Council's contribution to the project and the commitments and responsibilities of the landholder. Each grant is based on the agreement that the landholder will contribute significantly to the project, in most cases by undertaking agreed works, with materials supplied by Council.

The River Health Grants program has been very well received by the community and has made an immediate improvement in the riparian conditions of treated areas.

It is proposed to support landholders with additional River Health Grants as detailed below.

Property Owner	Locality	Length of stream frontage	Objective of works	Council contribution
Hall	Duroby Creek	300m	Site Action Plan preparation, weed control and planting of 450 trees along Duroby Creek riparian zone.	\$3060
Hogan	Chowans Creek	500m	Water trough and stock exclusion fencing along creek frontage.	\$3000
Snaith	Bilambil Creek	70m	Stock exclusion fencing and revegetation along frontage of Bilambil Creek. Site identified as under DPI's fish friendly farms project.	\$1200
McEvoy	Bilambil Creek	100m	Stock exclusion fencing and revegetation along frontage of Bilambil Creek. Site identified as under DPI's fish friendly farms project.	\$1500
Duckworth	Commissioners Creek	NA	Provision of materials to reduce gully erosion and sediment entering Clarrie Hall Dam	\$2857.80

CONCLUSION:

The projects nominated for approval in this round of River Health Grant agreements all include significant in-kind contributions from the property owners. Projects will achieve the aims of the River Health Grants Scheme, and are in accordance with the Water Supply Catchment Stream Bank Protection Policy.

COUNCIL IMPLICATIONS:

a. Policy:

Water Supply Catchment Stream Bank Protection Version 1.2.

b. Budget/Long Term Financial Plan:

Funded through River Health Grants Scheme.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.5 Revegetate riparian zones
- 4.1.2.5.1 River health grants on private land

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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32 [CNR-CM] Action on the Ground - AOTGR1-66- Increasing Soil Carbon in Tweed Valley Farmland

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council has been offered a \$586,500 grant from the Australian Government, Department of Agriculture Fisheries and Forestry to implement a nutrient recycling program on 30 local farms across six industries (sugar cane, banana, vegetable, orchards, dairy, beef) both conventional and organic with the aim to increase soil carbon whilst reducing farm Green House Gas (GHG) emissions.

Council's contribution to this project is in-kind project management from the Sustainable Agriculture Program.

RECOMMENDATION:

That Council:

- 1. Accepts the grant offer of \$586,500 from the Australian Government - Department of Agriculture Fisheries and Forestry for the delivery of the Action on the Ground - AOTGR1-66- Increasing Soil Carbon in Tweed Valley Farmland project.**
- 2. Votes the expenditure and signs the agreement under the seal of Council if required.**

REPORT:

Council has been offered a \$586,500 grant from the Australian Government, Department of Agriculture Fisheries and Forestry to implement a nutrient recycling program on 30 local farms across six industries (sugar cane, banana, vegetable, orchards, dairy, beef) both conventional and organic with the aim to increase soil carbon whilst reducing farm GHG emissions. The project will demonstrate that through the application of compost, biochar/compost blend, animal manure as well as using legume cover crops, soil carbon levels consistently increase over various landscapes, soil types, activities and time. Furthermore the project will provide a platform to trial the production of local carbon rich soil amendment products by recycling local resources (municipal green waste, dairy manure and effluent, forestry and road side wood chips) thus reducing need for transport and associated GHG emissions or financial cost (currently transport accounts for over 50% of the total cost of composts or manure).

Trial:

The project aims to apply 2700 tonne ("t") of carbon rich soil amendment and plant 200 hectares ("ha") of legumes on 30 Tweed farms (dispersed over the shire with different, landscapes, soils and activities) over three years. As previously stated the 30 farms will be equally shared through six industries (sugar cane, banana, vegetable, orchards, dairy, beef). Within each industry, the participating farms have been chosen according to their representative nature. For example, the five sugarcane farms comprise: farm 1 leaves trash on the ground; farm 2 burns trash; farm 3 is on heavy/ poor clay; farm 4 is on rich alluvial clay/loam; farm 5 is on low saline clay.

The participating farms will be treated with 30t/farm/year, of compost or biochar/compost blend or manure. The project intends to demonstrate that any of the three possible treatments can increase soil carbon, soil health and overall sustainability in comparison with existing control treatments. A total of 900t of product/ year will be sourced/ produced according to the following schedule: - 500t municipal green waste compost manufactured by local councils - 200t biochar/ compost blend (1/3 ratio) manufactured by The Biochar Association of Australia using a BIGchar hired kiln on site - 200t of dairy manure produced on site

Once a product has been chosen by the farmer, it will remain the same for the duration of the project and will be applied (using a local spreading contractor) yearly according to the following regime: - A Control block (approx 10% of total trial area representative of the rest of the farm and its existing management etc). - A10t/ha/year block (approx 45% of total area) - A 20/t/ha/year block (approx 45% of total area).

Inoculated legume seed will be sown to both high and low-rate blocks at the same time as treatment is applied and as follows: - Soybean @ 70kg/ha, or Lupines @ 30kg/ha for sugarcane (once over 3 years) - Lablab @ 15kg/ha for vegetables (1 crop/ year) - Clover @5kg/ha & vetch @10kg/ha for pastures, bananas & orchards (once over 3 years)

Sampling and analysis:

Soil samples and analysis will be undertaken yearly, starting July 2012 or following the first round of product application. The sampling will be subcontracted to a qualified external sampling provider and following the prescribed National Soil Carbon Research Program methods as well as schedule below: At each farm and on each of the three trial blocks, a

25x25m plot (GPS marked) will be randomly sampled (using hydraulic auger) 10 times at depth 0-100mm, 100-200mm and 200-300mm, to form 3 composite samples representative of the sampled depth. As a result a total of 90 composite samples over 30 farms, will be prepared and sent every year to a NATA accredited laboratory for analysis. Each sample will be oven dried (following moisture content measurements) and analysed for, total dry weight, pH, Acid Neutralizing Capacity (if farm was limed in the last 3-5 years), total Carbon ("C"), total Nitrogen ("N"), total S, Total C/ Total N ratios.

Community benefits:

This project will demonstrate to Tweed's farmers the direct productivity and ecological benefits of increased soil carbon on improved soil management methods. It is expected to lead to the adoption of land management practices in line with the Climate Change Research Program findings and Action on the Ground targets. Throughout the duration of the project Council will organise field days and workshops highlighting sustainable farming and organic waste recycling practices. The workshops will showcase the soil carbon and organic matter analysis and results thus giving the opportunity to further discuss soil carbon and GHG science, policies and other projects. Council and Tweed Sustainable Agriculture Network will seek contribution and collaboration of industry groups, government agencies including Department of Primary Industries, Catchment Management Authorities, Landcare and neighbouring local governments and target commercial farming communities and the hobby farming community and rural landholders. The project will increase community engagement and participation in improving land management practices. A minimum of 150 farmers and landholders will be positively influenced by this project, while a greater number within the broader community will also indirectly benefit.

Overall the anticipated outcomes of this project are:

- A comprehensive/ representative Soil carbon database for the Tweed, able to inform application rates for use of alternatives to chemically based fertilizers.
- Increased and protected soil carbon
- Reduced nitrous oxide emissions
- Improved soil structure and fertility
- Improved nutrient and water availability
- Reduced input of chemically based fertilizers in sensitive areas hence improved farm and ecosystems productivity and resilience
- Reduced soil acidification related to acid sulfate soils and optimized buffering capacity of soil conditioners
- Decreased diseases and pest impacts
- Community engagement and capacity building - Framework for future larger scale (regional) project

Following is a copy of the letter from the Minister:



Senator the Hon. Joe Ludwig

Minister for Agriculture, Fisheries and Forestry
Senator for Queensland

Mr David Oxenham
Director Community and Natural Resources
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

SOIL CONSERVATION
REF: AOTGR1-955805-66

GREENHOUSE EFFECT
GOVT GRANT-GENERAL

TWEED SHIRE COUNCIL
FILE No: AGRICULTURE-SUSTAINABLE
DOC. No:
RECD: 25 MAY 2012
ASSIGNED TO: OXENHAM, D
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Dear Mr Oxenham

I am very pleased to offer your organisation Action on the Ground funding of \$586,500 (GST inclusive) for your project *Increasing soil carbon in Tweed Valley farmland* under the Australian Government's Carbon Farming Futures initiative.

I strongly support on-farm trials and demonstrations of practices and technologies to increase carbon stored in soil. Your proposal was of high quality and I am pleased to support organisations like yours in implementing projects that help achieve Action on the Ground outcomes.

Details about funding conditions and contractual arrangements will be sent to you shortly. Please ensure that you sign and submit your funding deed promptly. Delays in submitting the deed may result in late payment of your grant funding and reduce your project time frame. If you have any queries, please contact the Action on the Ground team on 1800 025 005 or at aotg@daff.gov.au.

Thank you for your interest in trialling and demonstrating on-farm management practices to sequester carbon in soil.

Yours sincerely

Joe Ludwig

Minister for Agriculture, Fisheries and Forestry
Senator for Queensland

17 May 2012

OPTIONS:

1. Council accepts the grant offer of \$586,500 from the Australian Government, Department of Agriculture Fisheries and Forestry for the delivery of the Action on the Ground project.
2. Council does not accept the grant.

CONCLUSION:

This project will contribute to research and on ground works taking place around Australia. It is a significant opportunity for the Tweed farmers and Tweed Shire Council to partner in a project that will demonstrate the economic, environmental and social benefits of improving soil carbon.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Council's contribution is in the form of in-kind project management from the Sustainable Agriculture Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.5 Improve the environmental capacity of the Tweed agriculture lands
- 4.5.1 Promote and encourage sustainable and innovative agricultural practices
- 4.5.1.2 Grant funded soil health, productivity and landscape rehabilitation projects
- 4.5.1.2.1 Complete grant funded sustainable agriculture projects.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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33 [CNR-CM] Arts NSW Capital Infrastructure Grants Variation - Tweed River Regional Museum

SUBMITTED BY: Community and Cultural Services



Civic Leadership



Supporting Community Life



Strengthening the Economy

SUMMARY OF REPORT:

Council has received three Arts NSW Capital Infrastructure Grants totalling \$370,000 toward construction of the Tweed River Regional Museum (TRRM) at Tweed Heads (\$150,000 in 2007; \$100,000 in 2008 and \$120,000 in 2009).

Zoning and planning issues have significantly delayed development of the Tweed Heads facility. As a result, Council has sought and received a number of extensions to the due date for acquittal of all grants, currently 31 December 2013.

At the same time, Council has committed significant resources to redevelopment of the TRRM facility at Murwillumbah and to a storage facility for all TRRM collections. These projects will absorb available resources over the next 1-2 years while planning toward the proposed Museum at Flagstaff Hill continues. However, the Tweed Heads facility will not be completed by the December 2013 Arts NSW deadline for grant acquittals. Further extensions beyond this date are unlikely.

In light of this, a proposal was submitted to Arts NSW to allow Capital Infrastructure Grants for the Museum at Tweed Heads to be directed to other TRRM projects, namely:

- redevelopment of the Tweed River Regional Museum at Murwillumbah (\$250,000)
- construction of the Museum collection store currently underway at South Murwillumbah (\$120,000)

Arts NSW has advised in-principle approval of this proposal, subject to submission of revised project descriptions, delivery plans and budgets.

RECOMMENDATION:

That Council endorses the application of Arts NSW Capital Infrastructure Grants (2007, 2008, and 2009) totalling \$370,000 toward:

- **redevelopment of the Tweed River Regional Museum at Murwillumbah (\$250,000)**
- **construction and fit out of the Tweed River Regional Museum collection store (\$120,000)**

REPORT:

In April 2011 Council resolved to support a single storey addition to the Tweed River Regional Museum at Murwillumbah. A budget of \$2.6M was allocated to the project. Project architect Paul Berkemeier subsequently completed concept designs for a single storey addition at the rear of the existing Museum. The design includes provision for future expansion utilising a mezzanine floor across the eastern side (rear) of the building.

In November 2011 Council resolved:

- *to support the new concept design for the extension of the Tweed River Regional Museum Murwillumbah based on the single storey with future mezzanine designed by architect Paul Berkemeier dated 31 October; and*
- *to proceed with submission of Development Application for the above.*

A Development Application was approved on 28 March 2012. This application included provision for a mezzanine level, identified as a future Stage 2.

At the same time, staff continue to pursue development of the Museum facility at Tweed Heads. However, zoning and planning issues are unresolved and continue to cause significant delays to this project.

In January 2012 Arts NSW was informed of ongoing delays to the Tweed Heads Museum. The option to reallocate Capital Infrastructure grants to other Museum projects was raised. Stage 2 of the Murwillumbah Museum project - construction of the mezzanine level was identified as meeting Arts NSW Capital Infrastructure funding criteria. A proposal to vary existing grants and to apply \$250,000 toward Murwillumbah redevelopment was subsequently submitted to Arts NSW.

Arts NSW have advised in-principle approval of this proposal, conditional upon submission of a revised delivery plan (including timeline), and a budget confirming Council's contribution of at least 50 per cent of the costs of the project. This documentation has been submitted to Arts NSW.

Redevelopment of the Museum at Murwillumbah is continuing. Museum staff and volunteers are making significant progress, assessing, documenting and packing the collection. The project architect, Council staff and specialist sub-consultants will undertake detailed design beginning in June 2012 with submission of a Construction Certificate application anticipated in September/October 2012.

Tweed River Regional Museum Collection Storage Facility

In December 2011 Council made a number of resolutions regarding the construction and funding of a Records and Museum storage facility in Honeyeater Circuit Murwillumbah. This facility is currently under construction with an anticipated building completion date in August 2012. Specialised fit out to meet Museum requirements will follow.

The unit dedicated to Museum collections will cater for current and future Museum storage needs. It also provides a cost effective solution for storage of the collection housed at Murwillumbah during redevelopment of that site.

Discussions with Arts NSW staff identified the provision of a climate controlled 'pod' within the new collections store as meeting Arts NSW Capital Infrastructure funding criteria.

A proposal to vary Arts NSW Capital Infrastructure grants and to apply \$120,000 toward the construction and fit out of the store was submitted. Arts NSW have subsequently advised in-principle approval of this proposal, conditional upon submission of a revised delivery plan (including timeline) and a budget confirming Council's contribution of at least 50 per cent of costs of the project.

OPTIONS:

1. Approve the proposal to apply the Arts NSW Capital Infrastructure Grant to Tweed River Regional Museum at Murwillumbah and the museum storage facility.
2. Not approve the proposed application of grant monies and return the funds to Arts NSW.

CONCLUSION:

The in-principle agreement by Arts NSW to redirect Capital Infrastructure grants totalling \$370,000 toward redevelopment of the Tweed River Regional Museum at Murwillumbah and construction and fit out of the Museum collection store will significantly enhance the capacity and viability of both TRRM projects.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The proposal is within current budgets and the provisions of Council's Long Term Financial Plan.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.3 Delivering the objectives of this plan
 - 1.3.2 Council will seek the best value in delivering services
 - 1.3.2.2 Acquire and operate appropriate storage and retrieval facilities for Council records that are compliant with the State Records Act 1998
 - 1.3.2.2.1 Construct and move to a permanent records and museum storage facility
- 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

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.3 Provide opportunities for visitors to enjoy access to the arts through cultural facilities, festivals and programs
- 3.1.3.2 Provide accessible museums programs
- 3.1.3.2.1 Develop the Tweed River Regional Museum collection and displays as a valued resource for community and visitors to the Shire

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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34 [CNR-CM] Ageing Disability and Home Care Funding Variation (2009-2012)

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council is in receipt of correspondence dated 14 May 2012 from Family and Community Services, Ageing Disability and Home Care ("ADHC") informing Council of changes to the 2009-2012 Funding Agreement.

The changes are summarised within the report.

RECOMMENDATION:

That Council:-

- 1. Accepts the variation of funds from Ageing Disability and Home Care ("ADHC") of \$10,000 for International Day of People with a Disability 2012.**
- 2. Votes the expenditure.**
- 3. Signs the Acceptance of Funding Variation documents under the seal of Council if required.**

REPORT:

Council is in receipt of correspondence dated 14 May 2012 from Family and Community Services, Ageing Disability and Home Care ("ADHC") informing Council of changes to the 2009-2012 Funding Agreement.

The additional funding offered is a one-off allocation of \$10,000 for "International Day of People with a Disability" celebrations for 2012. The event will be organised with the assistance of the Equal Access Advisory Committee and Tweed Disability Interagency.

An excerpt of the funding variation is provided below:

ANNUAL FUNDING VARIATION

O-Id:	Type [Frequency]:	Annual Amount:	CYE:	One-Off:	Funding Period:	Description:
N/A	One-off [One-off]	\$0.00	\$10,000.00	\$10,000.00	01/07/2011-30/06/2012	2011/12-2nd-NR-FNC-07 : Brochures publicity catering venue hire and activities \$10,000
Sub Total:		\$0.00	\$10,000.00	\$10,000.00		

OPTIONS:

1. That Council accepts the funding, votes the expenditure and affixes seal to funding variation documents.
2. That Council does not accept the offer of funding.

CONCLUSION:

That the one-off offer of funding from ADHC is accepted to coordinate "International Day of People with a Disability" celebrations across the Shire in 2012.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Additional one-off grant funding to support delivery of "International Day of People with a Disability" celebrations 2012.

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
- 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being
- 2.1.6.1 Enhance the well-being of older people
- 2.1.6.1.2 Provide seniors programs and forums, celebrate Seniors Week and support Seniors Week and Seniors Expo Committee volunteers

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Letter and Funding Agreement from Family & Community Services, Ageing, Disability and Home Care dated 8 May 2012 (ECM 51855836)
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35 [CNR-CM] ComPacks Tender

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council at its meeting held 17 April 2012 resolved as follows:

"... that Council defers this item for a Workshop for Council to obtain a better understanding of how the Community Options program is managed and the services that it provides, to be held prior to the May Council meeting.

The Workshop was held on Tuesday 8 May 2012 and it is now appropriate for Council to reconsider the report on the ComPacks Tender.

RECOMMENDATION:

That Council endorses the proposal to partner with NSW Community Options Inc in the tender submission for the NSW Health ComPacks program.

REPORT:

Tweed Shire Council is currently funded through NSW Health for Tweed Community Options (COPs) to provide community packages of support to eligible persons discharged from participating NSW Hospitals. These community packages of support are called ComPacks. Council's current contract for 2011/12 period is \$1,031,600 which targets up to 777 patients being discharged from participating NSW hospitals. Council was previously awarded this contract via a direct arrangement with NSW Health.

History of ComPacks

NSW COPs Inc. is the peak community options body in the State. Tweed and 126 other COPs providers are members of this organisation.

Issues and concerns were raised by members around the impact discharged patients from hospitals were having in utilizing HACC funding. Funding at that time was somewhat more flexible and COPs providers had the ability to support these patients.

Following this, NSW COPs Inc. developed a service model which was tested across 10 Sydney hospitals late in 2003, then across three rural hospitals early in 2004, including The Tweed Hospital with Council and Tweed COPs. The current state wide program has an annual budget of \$22M with more than 15,000 clients receiving a ComPacks package. Tweed COPs has continued to be contracted to NSW Health since 2004 and has provided this service model of community support to eligible clients. Last year 662 clients were supported with a ComPack through Tweed COPs.

Contract changes

Two years ago ComPacks providers were advised by NSW Health, that a tender process for ComPacks would ensue and all were recently formally advised that it would be effective for the 2012/13 financial year and beyond. It is expected that the actual process will be completed with recommendations for successful applicants in May 2012. NSW Health have advised current providers that they will receive formal notification to extend existing contracts for three months until 30 September 2012 to assist with managing contracts while the tender process is being finalised.

Tweed COPs participated in community consultation with NSW Health and their consultant, The NOUS group, in regard to the ComPacks program. The NOUS group released a discussion paper from NSW Health outlining the potential options for the future governance and practice directions for the ComPacks Program.

The process of procurement from NSW Health is a 3 stage procurement process:

1. Expression of Interest (EOI) -
Due 28 February 2012
2. Request for Information (RFI) -
To successful EOI respondents due March 2012.
Evaluation of RFI and notification to respondents April 2012
3. Request for Proposal (RFP) -
Released to and submitted by successful RFI respondents - May 2012
Notification of preferred providers for contract award - June 2012

The terms and conditions of the EIO were very clear in that those choosing to put forward an EOI could choose to form a consortium with other proponents. This course of action eliminated the option of an independent submission.

There was a range of issues and options emerging from the Nous paper and NSW COPs have considered the way forward for the benefit of all members, ComPack recipients and the model itself.

NSW COPs Inc. has formed a ComPacks Advisory Working group which consists of eight representatives from COPS organisations across NSW. Tweed's Coordinator Community Options, Joanne Watters, is a member of this group along with representatives from Central Coast Case Management, Catholic Care, Maitland COPS, Southern Riverina COPS, COPS Riverina, Community Care Northern Beaches and Hammond Care. This group has been working with the NSW COPs in providing valuable intelligence and feedback and has captured the expertise and diversity of experience to assist in the ComPacks procurement process.

Tweed COPs, along with 121 of the 126 existing ComPacks providers, opted to be a part of the consortium with NSW COPs. NSW COPs Inc. has been successful to progress to the next stage and is now responding to Stage 2 of the tender process - Request for Information (RFI). Tweed COPs continues to work as part of the Advisory Working group to assist with this process.

OPTIONS:

At this stage officers have, subject to Council endorsement, indicated Tweed's participation in partnering with NSW COPs Inc. in the tender process.

1. That Council endorses the proposal to partner with NSW Community Options Inc in the tender submission for the NSW Health ComPacks program.
2. That Council not endorse the proposed action and discontinues the ComPacks program.

CONCLUSION:

That Council supports the officers' position of joining with 121 other COPs providers and NSW COPs Inc. to provide a joint proposal for the delivery of ComPacks services within the Shire.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

This program is funded through NSW Health.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

36 [CNR-CM] Community Support Funding 2013 to 2015

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council is in receipt of Funding Agreement packages from NSW Government Family and Community Services Ageing, Disability and Home Care ("ADHC") and from the Australian Government Department of Health and Ageing ("DoHA"). The funding is to provide comprehensive, coordinated and integrated range of basic maintenance, support and care services for eligible residents of Tweed Shire to support them to be more independent at home and in the community, thereby enhancing their quality of life and/or preventing or delaying their premature or inappropriate admission to long term residential care and provide flexible, timely services that respond to these eligible Tweed residents needs.

RECOMMENDATION:

That Council:

- 1. Accepts the funds from NSW Government Family & Community Services, Ageing Disability and Home Care and the Australian Government Department of Health and Ageing for the services outlined in this report.**
- 2. Votes the expenditure and signs the Funding Agreements under the seal of Council if required.**

REPORT:

Council is in receipt of Funding Agreement Packages from NSW Government Family and Community Services Ageing, Disability and Home Care ("ADHC") and from the Australian Government Department of Health and Ageing ("DoHA") to provide comprehensive, coordinated and integrated range of basic maintenance, support and care services for eligible residents of Tweed Shire to support them to be more independent at home and in the community, thereby enhancing their quality of life and/or preventing or delaying their premature or inappropriate admission to long term residential care and provide flexible, timely services that respond to these eligible Tweed residents needs.

Tweed Shire Council is currently funded under the Home and Community Care Program ("HACC") by ADHC for Community Options and Community Worker HACC.

Council was previously advised of the shift in aged care policy and funding responsibility and that from 1 July 2012 Tweed Shire like many other organisations providing community care to clients aged 65 and over (50 years and over for Aboriginal and Torres Strait Islander people) and to those under 65 years (under 50 years for Aboriginal and Torres Strait Islander people) will have two contracts, one with the Commonwealth (DoHA) and one with the State (ADHC).

A summary of the funding offer from ADHC and DoHA is below:

Service Type/Output Description	ADHC			
	Output Units (Hours/\$)	2013 Funding (\$)	2014 Funding (\$)	2015 Funding (\$)
Domestic Assistance Hours	177	\$6,505	\$6,505	\$6,505
Social Support Hours	683	\$13,011	\$13,011	\$13,011
Personal Care Hours	288	\$11,710	\$11,710	\$11,710
Meals Services Meals	335	\$2,168	\$2,168	\$2,168
Respite Hours	248	\$10,842	\$10,842	\$10,842
Case Management Hours	3804	\$212,467	\$212,467	\$212,467
Home Modifications Dollars	\$7,806	\$7,806	\$7,806	\$7,806
Transport Trips	326	\$4,336	\$4,336	\$4,336
Goods & Equipment Items	\$14,551	\$14,551	\$14,551	\$14,551
Allied health hours	100	\$6,781	\$6,781	\$6,781
Support Coordination for OPC	4118	\$229,616	\$229,616	\$229,616
Carer Assistance Packages for OPC	\$269,144	\$269,144	\$269,144	\$269,144
<i>Total</i>		\$788,936	\$788,936	\$788,936
Community HACC Worker	\$26,553	\$26,553	\$26,553	\$26,553

Service Type/Output Description	DoHA			
	Output Units (Hours/\$)	2013 Funding (\$)	2014 Funding (\$)	2015 Funding (\$)
Domestic Assistance Hours	277	\$10,175	\$10,175	\$10,175
Social Support Hours	1067	\$20,350	\$20,350	\$20,350
Personal Care Hours	450	\$18,315	\$18,315	\$18,315
Meals Services Meals	525	\$3,390	\$3,390	\$3,390
Respite Hours	387	\$16,958	\$16,958	\$16,958
Case Management Hours	5951	\$332,319	\$332,319	\$0
Home Modifications Dollars	\$12,210	\$12,210	\$12,210	\$12,210
Transport Trips	511	\$6,782	\$6,782	\$6,782
Goods & Equipment Items	\$22,760	\$22,760	\$22,760	\$22,760
Allied health hours	258	\$17,436	\$17,436	\$17,436
<i>Total</i>		\$460,695	\$460,695	\$128,376
Community HACC Worker	\$56,425	\$56,425	\$56,425	\$56,425

There is no change to the overall level of funding, however at this time Case Management from DoHA in 2015 has not been included. Under the DoHA offer the service group that case management fits into has been offered over two years. There are several service types like case management assessment, counselling/support, advocacy that have similarities with services delivered through other community care programs that are funded and managed by the Australian government. The Funding Agreement for these service types are being offered for two years to allow the Australian Government to take steps to align these services with the Aged Care Gateway being developed to make aged care services easier access and navigate and, the reforms to respite services under the Living Longer Living Better aged care reform package. DoHA has indicated that it intends working with Council and service providers to integrate similar services across different programs.

A copy of the correspondence from NSW Government Family and Community Services Ageing, Disability and Home Care ("ADHC") and from the Australian Government Department of Health and Ageing ("DoHA") are reproduced below.



Australian Government
Department of Health and Ageing



Ms Joanne Watters
Co-ordinator
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Ms Watters

Re: Funding Agreement for the Provision of HACC Services to Older People

On behalf of the Commonwealth, I am pleased to offer the enclosed Funding Agreement for the provision of HACC services to older people. The Funding Agreement consists of the:

- Terms and Conditions for aged care funding (in booklet format)
- Program Schedule(s)
- Program Manual.

More information on the Funding Agreement is included in the enclosed fact sheet.

If your organisation wishes to provide the services described in the schedule(s) please arrange for all copies of the enclosed schedule(s) to be signed and dated where indicated in accordance with your organisation's constitution.

All copies of schedules must be returned to enable the Commonwealth to co-sign the document. You are also required to complete and return the enclosed form with your bank account details including Account Name, BSB Number, Account Number and Name of Bank. Please return all documentation by **COB 18 June 2012**.

Return all copies of the schedule(s) and the Bank Details form together, using the enclosed Express Post envelope, or Courier to:

HACC Reform Branch
Department of Health and Ageing
Level 5, Sirius Building (MDP 507)
23 Furzer Street
Woden ACT 2606

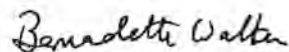
Please note that until the Commonwealth has signed all copies of the schedule(s), the Funding Agreement will not be binding on your organisation or the Commonwealth, and no legal obligations shall arise. Once signed, one copy of the schedule(s) will be returned to you for your records.

ECM 51796219

Your organisation may also be awarded an additional funding amount from the 2011-2012 growth funding allocation. Any additional allocations you are awarded will be included in your funding agreement through a schedule variation. This variation will be processed after all copies of the original schedule(s) have been signed by you and returned to, and co-signed by, the Commonwealth.

A checklist has been included to assist you. Also note there are a number of fact sheets available on the Aged Care Provider Portal (www.ebiz.agedcare.gov.au) to assist if required. If you have any queries on this matter please contact the HACC Reform Helpdesk on 1800 057 616, or email HACC.Reform@health.gov.au.

Yours sincerely



Bernadette Walker
Director
NSW/ACT HACC Implementation Section
HACC Reform Branch
6 June 2012

Encl.

- Terms and Conditions for aged care funding (booklet)
- Two (2) copies of each Program Schedule(s)
- Commonwealth HACC Program Manual
- Bank account details form
- Fact sheet 11 – The letter of offer pack
- Checklist to assist with completion of pack
- Reply paid envelope



Family & Community Services
Ageing, Disability & Home Care

Mr Mike Rayner
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

GWT (GANTS) COMM DPMS
DISABILITY/ACCESSIBILITY MATTERS
HACC, AGED SERVICES

TWEED SHIRE COUNCIL
FILE No: COMMUNITY OP 70-2
DOC. No:
RECD: 17 MAY 2012
ASSIGNED TO: OZENWAM D
HARD COPY <input type="checkbox"/>

AH12/34696

Dear Mr Rayner

I am writing to your organisation regarding Ageing, Disability and Home Care's (ADHC) new Funding Agreement from 1 July 2012.

The new Funding Agreement, following the conclusion of the current funding period on 30 June 2012, provides the opportunity to develop an Agreement that is contemporary, provides greater clarity for funded organisations and which reflects the theme of person centredness, a clear direction outlined in *Stronger Together 2*. This theme is also reflected in the work at a national level on the proposed National Disability Insurance Scheme and progress on the NDIS can be found at www.ndis.gov.au/.

ADHC is committed to ensuring the ongoing delivery of quality services that are person centred and which are well placed to provide individualised funding arrangements into the future. ADHC has undertaken targeted consultation, including with the industry peak bodies of National Disability Services (NDS) and Council of Social Services (NCOSS), to develop the new Funding Agreement which reflects the needs of the sector.

The new Funding Agreement clarifies requirements and responsibilities of boards and management committees strengthening their accountability for service delivery outcomes and compliance. It clearly articulates the obligations of both ADHC and funded organisations.

ADHC's Funding Agreement package will be sent to organisations in May 2012 for a return to ADHC by end of June 2012 to allow for processing prior to the new funding cycle and this package will include further information regarding the Agreement's Terms and Conditions. However the Funding Agreement and Guide will also be accessible on ADHC's website in May 2012 providing your organisation with the opportunity to commence preparations for the renewal on 1 July 2012.

Office of the Chief Executive

Ageing, Disability and Home Care, Department of Family and Community Services NSW
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.adhc.nsw.gov.au

When returning your organisation's Funding Agreement to ADHC, I am requesting that you enclose written confirmation that your board or management committee has reviewed and understood the Funding Agreement for execution; and that it is committed to the transition to an individual centred approach, with the understanding that this will drive funding allocation during the course of the Funding Agreement and in the future.

ADHC's regional staff are available to assist any individual providers with particular funding queries should they arise, or please contact Stephen Chanphakeo, Director Funding Operations, Sector Development on 8270 2145.

Yours sincerely



Jim Moore
Chief Executive

14.05.2012

DataWorks Document Number: 50580843

OPTIONS:

1. Council can continue this service to the community and accept the grant funds.
2. Council can decline the grant offers and not provide the services.

CONCLUSION:

That Council continues to support the Community Options & Community Worker HACC funding through both the Commonwealth and State governments.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Fully funded by Family and Community Services Ageing Disability and Home Care and the Commonwealth Government Department of Health and Ageing.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2 Supporting Community Life

2.1 Foster strong, cohesive, cooperative, healthy and safe communities

2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

**37 [CNR-CM] EC2012-081 Integrated Water Cycle Management (IWCM) Strategy
- Six Yearly Review - Tender Recommendation for Consultancy Services**

SUBMITTED BY: Water



Caring for the Environment

SUMMARY OF REPORT:

Council wishes to engage a consultant for the review of Council's Integrated Water Cycle Management Strategy ("IWCMS") to fulfil NSW Office of Water ("NOW") requirements for a major review every six years.

Council's proposed approach to IWCM expands on the traditional Local Water Utility ("LWU") remit and takes into account Council's broad range of services and responsibilities. As such the approach encompasses a broader focus than that required under the NSW Office of Water best practice guidelines.

A suitably qualified consultant will be required to undertake the works required to meet the requirements of the review.

This report outlines the assessment of Tenders EC2012-081 for consultancy services, and based on that evaluation (detailed in **CONFIDENTIAL ATTACHMENT A**), recommends the acceptance of a Tender.

RECOMMENDATION:

That:

- 1. Council awards the tender for EC2012-081 Integrated Water Cycle Management (IWCM) Strategy to Hydrosphere Consulting Pty Ltd for the lump sum amount of \$108,517.61 inclusive GST.**
- 2. The General Manager is given delegated authority to approve variations up to \$150,000 above the contract sum and those variations are reported to Council following completion of the works.**
- 3. Informs unsuccessful applicants of this outcome.**

4. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and/or (d) of the Local Government Act 1993, because it contains:-**
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Council wishes to engage a consultant for the review of Council's Integrated Water Cycle Management Strategy to fulfil NSW Office of Water requirements for a major review every six years.

Council's proposed approach to IWCM expands on the traditional Local Water Utility ("LWU") remit and takes into account Council's broad range of services and responsibilities. As such the approach encompasses a broader focus than that required under the NSW Office of Water best practice guidelines.

A suitably qualified consultant will be required to undertake the works required to meet the requirements of the review.

Background

Services required under this consultant engagement include:

- Detailed review and evaluation of the large number and wide range of water-related programs, documents and studies already being undertaken in the Tweed Shire.
- Compilation of the water supply, sewerage and stormwater issues and IWCM requirements which are likely to confront the Tweed Shire during the next 30 years.
- Identification of existing IWCM scenarios, and confirm whether, based on previous Tweed Shire work, those scenarios are adequate and appropriate in addressing the issues identified as likely to be confronted during the next 30 years.
- Incorporate opportunities for the community and stakeholders to raise and review IWCM issues and address those issues specifically within the IWCM review.
- Propose future IWCM actions to address any issues or legitimate gaps identified, and assess these at a high level to provide overall direction and recommendations for organisational synergies to move forward into the future and achieve the most appropriate integrated approach.

Given the volume of work carried out to date, the review will not start with a clean slate. Instead, it will analyse the existing foundation, determine any gaps and provide direction on ways to move forward into the future.

It is envisaged that a significant component of the work to be carried out by the Consultant will involve detailed review of the existing foundation.

Tenders Received

Five tenders were received, with all tenders meeting the requirements of the RFT documents.

Tenderer	ABN
Hydrosphere Consulting	74 162 782 428
WBM BMT	54 010 830 421
GHD	39 008 488 373
CH2MHill	42 050 070 892
HydroScience	79 120 716 887

Evaluation

The information submitted by tenderers was evaluated against the specified price and non-price criteria, in accordance with the Tender Evaluation Plan. A summary of the scores agreed for the non-price criteria, signed by all members of the Tender Evaluation Committee is contained in Appendix A of **CONFIDENTIAL ATTACHMENT A**.

The tenderer with the highest total score was Hydrosphere Consulting and was therefore identified as the most advantageous.

Referees indicated satisfactory performance by Hydrosphere and confirm that Hydrosphere recently delivered similar services satisfactorily. Hydrosphere has a very good record in IWCM Strategy development, which is aligned with the key component of the services.

CONCLUSION:

It is recommended that the tender from Hydrosphere Consulting Pty Ltd, for the recommended fee of \$108,517.61 inclusive of GST, be accepted.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

Outcomes of the IWCM Strategy review may result in further policy development across the full range of the Water and Wastewater functions of Council.

The review will utilise NSW Office of Water - IWCM Guidelines.

b. Budget/Long Term Financial Plan:

The IWCM Strategy relates to Council's business and responsibilities as a Local Water and Wastewater Utility. Failure to review the existing IWCM Strategy as per NSW Government guidelines could result in lost opportunities for government funding and may put Council at risk of losing these functions.

Funding for the engagement is contained within the current 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.

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:

- 4 Caring for the Environment
- 4.3 Maintain and enhance Tweed's waterways and its catchments
- 4.3.1 Manage water resources sustainably and minimise impact on the environment by achieving more integration of water supply, wastewater and stormwater services
- 4.3.1.1 Ongoing Integrated Water Cycle Management Actions

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** - Memo EC2012-81 Tender Recommendation for Consultancy Services - Integrated Water Cycle Management (IWCM) Strategy Six Yearly Review (ECM 51850474)
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38 [CNR-CM] Contract EC2012-004 Construction of 250mm Diameter Sewer Rising Main (SRM 1023) Extension, Murwillumbah

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

Tenders were invited for the Construction of 250mm diameter sewer rising main (SRM 1023) Extension, Murwillumbah.

Ten tenders were received by the advertised closing date of 14 March 2012.

Recommendations have been formulated based on defined selection criteria as included within this report. Based on price and non-price criteria it is recommended that Council accepts the conforming tender from Demacs Constructions (Australia) Pty Ltd for EC2012-004 construction of 250mm diameter sewer rising main (SRM 1023) Extension, Murwillumbah.

RECOMMENDATION:

That

- 1. Council award contract EC2012-004 Construction of 250mm diameter sewer rising main (SRM 1023) Extension, Murwillumbah, to Demacs Constructions (Australia) Pty Ltd for the Schedule Lump Sum amount of \$257,202.80 inclusive of GST.**
- 2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.**
- 3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Background

Sewage pump station (SPS) 1023 currently has a sewer rising main (SRM 1023) which transfers the sewage from properties around North Arm Road to a sewage pump station (SPS 1013) at Halls Drive, Murwillumbah. This pump station collects sewage from properties around it as well as the sewage from SPS 1023, and transfers the sewage through SRM 1013 to the Murwillumbah Wastewater Treatment Plant.

Due to current and proposed residential development growth around SPS1023, the existing sewage rising main SRM 1013 is not sized to transfer the increased volumes. It is therefore necessary to install a new sewage rising main from SPS 1013 to the Murwillumbah Wastewater Treatment Plant.

A Review of Environmental Factors was prepared and the Development Consent for the proposed works issued in November 2011.

Tender Background

Tenders were invited for the Construction of 250mm diameter sewer rising main (SRM 1023) Extension, Murwillumbah EC2012-004. Ten tenders were received by the advertised closing date of 14 March 2012.

The work to be performed under Contract EC2012-004 will comprise of the construction of a new 250 diameter Sewer Rising Main from the existing sewage pump station 1013 at Halls Drive and discharge at the Murwillumbah Wastewater Treatment Plant. This will include the three connections to existing sewer rising mains and the testing and commissioning of the new works.

Tenders Received

A total of 10 responses were recorded for EC2012-004 at the Tender Box opening on 14 March 2012 as follows:

Tenderer

Golding Contractors Pty Ltd
J & M Bashforth & Sons Pty Ltd
Cara Civil Pty Ltd
Sydney Marina Contracting Pty Ltd (SMC)
MJ & SL Seery Excavations Pty Ltd
Coe Drilling Pty Ltd
Demacs Constructions (Australia) Pty Ltd
Silverstrand Developments Pty Ltd
Eire Constructors Pty Ltd
Ledonne Constructions Pty Ltd

Evaluation Criteria

Tenders were evaluated based on the following criteria listed:

Item	Criterion	Weighting %
1	Tender Price	20
2	Relevant experience (previous work of this type)	10
3	Track record (general reputation for work competence, capacity)	10
4	Technical skills (people, systems, specific abilities)	20
5	Management (organisation, acceptable insurance, economic stability, quality system)	10
6	Methodology (how project is to be tackled, scope of work)	20
7	Time performance (as proposed for project, likelihood of meeting it)	10
	Total	100

Tender Evaluation

The evaluation was conducted by Council's staff, consisting of Council's Project Engineer and Senior Water and Sewer Design Engineer.

The general terms of reference were as follows:

- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Review any written responses;
- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.

A summary of the results of the Tender Evaluation is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

Expected Project Timeframe

The expected duration of the contract is 12 weeks.

OPTIONS:

Not Applicable.

CONCLUSION:

Based on the results of the tender evaluation, it is recommended that the tender submitted by Demacs Constructions (Australia) Pty Ltd be accepted for the Contract EC2012-004 Construction of 250mm diameter sewer rising main (SRM 1023) Extension, Murwillumbah.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Policy Version 1.3.

b. Budget/Long Term Financial Plan:

The total overall project estimate for the Construction of 250mm diameter sewer rising main (SRM 1023) is within budget.

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
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.7 Deliver Capital Works Program, (Only Large items listed)
- 2.3.3.7.9 Sewer rising main 1023 North Arm Road Murwillumbah construction

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** – EC2012-004 Construction of 250mm Diameter Sewer Rising Main (SRM 1023) Extension, Murwillumbah - Tender Evaluation Summary (ECM51752512)
-

39 [CNR-CM] Non-Potable Water Harvesting in Commercial and Industrial Precincts

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

On 16 August 2011 Council resolved as follows:

"that the:

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

Council adopted the Policy: Rainwater Tanks in Urban Areas (version 2.1) at its meeting on 20 September 2011. This Policy applies to rainwater tanks installed on residential properties in urban areas of the Tweed Shire that are connected to the public water supply.

The development of a similar Policy, or inclusion in the existing Policy, for rainwater tanks installed for non-residential use including, commercial and industrial precincts as specified by Council's resolution, has been programmed for the latter half of 2013 to enable appropriate assessment of the results from Council's Top 20 and Top 100 non-residential water user programs.

It is envisaged that a draft Policy for rainwater tanks in non-residential applications will be completed by September 2013.

RECOMMENDATION:

That Council notes that a draft Policy for rainwater tanks in non-residential areas of Tweed Shire connected to the public water supply will be prepared and submitted to Council by September 2013.

REPORT:

Council adopted the Policy entitled *Rainwater Tanks in Urban Areas (version 2.1)* at its meeting on 20 September 2011. This Policy applies to rainwater tanks installed on residential properties in urban areas of the Tweed Shire that are connected to the public water supply.

Due to the variety of business needs and applications, a similar Policy, or inclusion in the existing Policy, for rainwater tanks installed for non-residential use including commercial and industrial water customers, will need to be general enough to apply to most cases to ensure legitimate alternative water saving measures are not disadvantaged by the Policy. It is envisaged that such a Policy would be very similar in general content to the existing Rainwater Tanks in Urban Areas Policy already adopted by Council.

Work with the Tweed's Top 20 to date, Council's largest commercial and industrial water customers, has shown that these customers often have other, higher priority, unresolved water efficiency issues to address before the option of installing rainwater tanks is considered. Many customers in this group still have outdated and inefficient showers, toilets and taps to replace before moving on to tank solutions. Water audits carried out so far on Council's Own Top 20 water using properties are indicating the same tendency. It is envisaged that similar observations will be made when Council commences the Tweeds Top 100 program with the next group of non-residential customers.

The development of a non-residential rainwater tank Policy which includes commercial and industrial precincts as specified by Council's resolution, is therefore programmed for the latter half of 2013 to enable appropriate assessment of the results from Council's Top 20 and Top 100 non-residential water user programs.

This timing also enables the benefits from other projects such as the development and roll out of Council's new water bills, continuation of the Tweed's Top 20 water saving program, review of the residential rebate program and reduction of unaccounted for water to be considered.

A review of rebate options for rainwater tanks will be included in the Policy development phase.

It is envisaged that a draft Policy for rainwater tanks in non-residential applications will be completed by September 2013.

OPTIONS:

There are no options for Council to consider at this stage.

CONCLUSION:

The draft Policy for rainwater tanks in non-residential applications which will include commercial and industrial precincts will be submitted to Council by September 2013.

COUNCIL IMPLICATIONS:

a. Policy:

This new Policy will be closely related to Rainwater Tanks Version 2.1.

b. Budget/Long Term Financial Plan:

The development of a separate rainwater tank policy for non-residential areas was not incorporated in the Demand Management Strategy Implementation Plan. The Demand Management budget will need to be reviewed in light of the additional staff costs and promotional/advertising costs expected.

c. Legal:

Not Applicable.

d. Communication/Engagement:

The draft Policy for non-residential areas will need to be placed on public exhibition prior to amendment/adoption by Council.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.1 Advocate for the provision of affordable and accessible health care, aged care, mental health, youth and family services and other community services
- 2.3.1.2 Advocate for improved education

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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40 [CNR-CM] Water Friendly Garden Policy

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

At its meeting on 15 May 2012 Council resolved:

"that Council develops a water friendly garden Policy."

Development of a water friendly or water efficient garden policy has been incorporated in the Demand Management Strategy Implementation Plan. Its development will follow the development of Open Space Irrigation Guidelines and both are now scheduled for completion by mid 2013. Work is due to commence on this project in early 2013.

RECOMMENDATION:

That Council notes that the development, exhibition, adoption and promotion of a Water Friendly Garden Policy is scheduled for early to mid 2013 as a key component of the Demand Management Strategy Implementation Plan.

REPORT:

Council adopted the three year Implementation Plan for the Demand Management Strategy (DMS) on 17 May 2011. A key project that has been incorporated in the Implementation Plan involves the development, exhibition, adoption and implementation of Open Space Irrigation Guidelines and a Water Efficient Garden Policy, as recommended in the DMS.

The Open Space Irrigation Guidelines will provide guidance about efficient water use for major users of town water for irrigation such as Council's parks and gardens, nurseries, bowling clubs, golf clubs and similar. The Water Efficient (Friendly) Garden Policy will be targeting residential town water use on lawns and gardens.

It is envisaged that the development of both, the irrigation guidelines and garden policy will require significant community and stakeholder engagement to ensure that the overall program meets community and business needs. Partnerships with local nurseries and organisations such as Nursery and Garden Industry Australia are likely to ensure that Council's guidelines and policy are successfully promoted and implemented.

Development of the Water Efficient (Friendly) Garden Policy will follow the development of the Open Space Irrigation Guidelines and both are now scheduled for completion by mid 2013. Work is due to commence on this project in early 2013.

OPTIONS:

There are no options for Council's consideration at this stage.

CONCLUSION:

Development of the Water Efficient (Friendly) Garden Policy and Open Space Irrigation Guidelines shall proceed as per the DMS Implementation Plan. Work is due to commence on this project in early 2013.

COUNCIL IMPLICATIONS:

a. Policy:

Council adopted the three year Infrastructure Plan for the Demand Management Strategy on 17 May 2011.

b. Budget/Long Term Financial Plan:

The cost of researching, developing, exhibiting, adopting, implementing and promoting the Water Efficient (Friendly) Garden Policy and Open Space Irrigation Guidelines has been incorporated in the three year Demand Management budget adopted by Council in May 2011.

c. Legal:

Not Applicable.

d. Communication/Engagement:

The development, review and implementation of both, the irrigation guidelines and garden policy will require significant community and stakeholder engagement. Partnerships with business, local nurseries and relevant associations and organisations are envisaged. The Water Efficient (Friendly) Garden Policy and Open Space Irrigation Guidelines will be placed on public exhibition and amended as required, prior to adoption by Council.

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
- 2.3.2.1 Deliver Demand Management Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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41 [CNR-CM] Water Demand Management Strategy - Residential Water Saving Program for 2012-2013

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

The Residential Water Saving Program is a key component of the Demand Management Strategy Implementation Plan which was adopted by Council in May 2011.

The Program is to be run in stages over a three-year period and commenced on 1 July 2011 with the introduction of a residential rebate for water saving shower heads, aerators and spouts/mixers.

Activities for the second year of the Residential Water Saving Program in 2012/2013, including residential rebates, have been developed and are presented in this report for Council's endorsement. These activities are primarily based on the performance of the existing residential rebate to date, rebate audit results and a community survey of residential water saving programs, including rebates, which was conducted in May 2012.

In summary, the proposal for 2012/2013 comprises the following key activities:

- Continue the existing residential rebate with some tightening of conditions to ensure that the products being installed deliver the expected water savings.
- Introduce a new residential rebate for dual flush toilets.
- Introduce a 'Meet your Meter... and Win' for residential water users to encourage householders to monitor their water use and make water savings.
- Introduce a web-based register for residential rainwater tanks.
- Develop clear links with Council's "Target 180" campaign.
- Prepare new water consumption bill format, quarterly billing and pro-rata charging for residential water consumption.
- Increase promotion and access to information using simple messages and untapped opportunities such as media, Council's website and involving other stakeholder groups.
- Investigate alternative rebate payment options and assistance for cash-poor and disadvantaged customers.
- Develop partnerships and other options to deliver a cost-effective water use assessment and installation service to residential homes.
- Research the feasibility of a rebate for residential rainwater tanks in year three of the Residential Water Saving Program.

- Continue to build community awareness and research additional ways to reward and promote positive behaviour change.
- Monitor and evaluate the impact and effectiveness of all rebates and supporting activities to assist with the design of the Residential Water Saving Program in year three.

RECOMMENDATION:

That Council endorses the actions proposed in this report to be implemented in year two of the Residential Water Saving Program in 2012/2013.

REPORT:

Existing Residential Water Saving Rebate

The current and first year of the Residential Water Saving Program commenced on 1 July 2011 with the introduction of Council's residential rebate for water saving shower heads, aerators and spouts/mixers.

The rebate is 50% of the combined cost of products and associated installation costs up to a maximum of \$70. Any combination of products is eligible for the rebate but there is a limit of one rebate per household and two of any individual product. The showerhead/s and aerators must be 3-star WELS rated and the replacement spout/s or mixer/s must be 4-star WELS rated.

Since the rebate involves the installation of new fittings in the home, applicants for the rebate must be either the owner or authorised managing agent of the property where the products are being installed. Tenants are able to participate in the rebate program by informing their landlords or property managers, who in turn must apply for the rebate.

Participation and Estimated Water Savings

As at 7 June 2012, 379 households had taken up the residential rebate. A total of 159 shower heads, 100 spouts/mixers and 466 aerators had been installed.

The total paid by Council in rebates as at this date is \$20,531 with the average rebate being about \$54.50. This compares with a total expenditure by applicants in excess of \$47,700.

Based on the performance of similar rebate programs that have been run by Sydney Water and Rous Water, water savings of about 15kL/annum can be expected per household if one or two shower heads are replaced. If only the spouts/mixers and/or aerators are replaced, the water saving is assumed to be 5kL/annum. As at 7 June 2012, 130 households had installed either one or two shower heads and 249 households had installed spouts/mixers and/or aerators. The estimated total water saving based on these figures is 3.2ML/annum.

The Demand Management Strategy Implementation Plan adopted by Council in May 2011 allocated an annual budget of \$160,000 to fund the Residential Water Saving Program, including rebates. The take-up of the residential rebate in its first year has fallen well short of the projected 2500 households but this allows for a significant expansion of the overall residential program in its second year.

Audit Results

The mandatory collection of old shower heads was considered to be impractical for Council and inconvenient for participants so an auditing process was implemented instead. The primary purpose of the audit was to check that products claimed as part of the rebate are not being removed or exchanged once installed. The other aim of the audit was to check that installed products are achieving water savings as predicted.

A random selection of 25 participating households (7.5% of total participants at the time) was audited in April and May 2012. The main findings of the audit were:

- All of the products claimed under the rebate were still installed and in good working order.

- Although all shower heads installed under the rebate were 3-star WELS rated as per the condition of the rebate, some were found to be using a lot more than the 9L/min expected making the average flow rate of shower heads audited about 11.5L/min.
- Some shower heads were using as much as 18L/min and did not appear to be restricted. It was found that almost all of the high-flow shower heads had been installed by someone other than a licensed plumber. It is possible that the restrictor may have been removed in some cases.
- The average flow rate from spouts/mixers and aerators installed under the rebate was about 7.5L/min, consistent with a 3 or 4-star WELS rating as expected.
- Most participants were satisfied with the performance of the products they had installed.

To check the water consumption of participating households before and after the installation of products as part of the rebate, past and current water meter readings were used to calculate the average daily water use.

The water meter reading recorded by the customer on their application form and a reading taken during the audit by the auditor were used to estimate the average daily water use by 15 of the households since the products were installed. When this figure was compared with the customers' past water use, approximately two thirds of the households (10) appeared to be using the same amount or more water per day on average than they were before installing the products. Overall, the 15 households were using 3% more water than they were prior to participating in the rebate.

A significantly better result was obtained when the average daily water use by these households between the day of the audit and Council's most recent water meter readings in May 2012 were compared with the daily water use over the previous twelve months. In this instance, the sample of 15 households used on average 13% less water per day than they did during the previous year. The total combined water saving was estimated to be 730L/day. If this trend were observed across all 379 households participating in the rebate, the total water saving would be about 6.7ML/annum.

The audit results highlight the inherent difficulties in measuring changes in water use accurately, given the variety of factors influencing household water use. A larger sample of participants and more sophisticated statistical analysis will be required to ensure that variables such as the weather, number of people in the household, time of the year and holidays/visitors are given adequate consideration. Notwithstanding, the preliminary results obtained for the small sample of audited households indicate that the estimated total water saving of 3.2ML/annum based on the uptake rate is achievable.

Community Survey

A survey seeking input from members of the community and other stakeholders was run during May 2012 to provide input to the review of the Residential Water Saving Program, including rebates.

A detailed report of the survey is attached under separate cover to this report to Council.

In total, 302 people were surveyed through a combination of interviews at community markets, shopping centres and the Seniors Expo and the use of an on-line service, Survey

Monkey. Members of the public were alerted to the on-line survey using articles in the Tweed Link and emails.

The key findings of the survey are summarised below.

Community feedback about Council's existing residential water saving rebate:

- 61% of respondents had heard of Council's residential water saving rebate and 39% had not. Of those who had heard about the rebate, 92% did not apply for the rebate and 9% did apply for the rebate.
- Reasons why they did not apply for the rebate include: 36% already had them installed (previous schemes, new house), 14% had no time, too busy or hadn't got around to it, 10% were renting, had only just heard about it, not sure they were eligible (renters, multi units etc).
- 73% already have devices installed. Of these, 46% have installed some but not all of the devices.
- 68% were interested in installing a water saving shower head, aerator or spouts/mixers and getting the rebate of up to \$70.
- 16% were not interested due to the cost involved in initial outlay or not having enough money to afford the cost of products.
- 52% of those surveyed prefer to get discounts directly through the store because it is easier, more convenient, quicker, good for businesses, no paperwork.
- 27% prefer to apply for the rebate through Council because it is safer, more trustworthy and/or shows that Council is leading the way.
- 31% said the complexity of forms and red tape/paperwork stopped them from claiming a rebate, 13% said cost was a barrier, 8% said time.

Opportunities for other rebates within the Demand Management Program:

- Other rebates like dual-flush toilets (56%), rainwater tanks (74%), washing machines (66%), dishwashers (46%), swimming pool covers (35%), water efficient garden products (62%) were all well supported.
- When asked about a reasonable rebate level, 22% of respondents would like Council to pay for 50% of the cost, 11% would like Council to pay for 25%, 12% were unsure or did not care, 6% wanted up to 15% of the bill, 6% wanted up to 20% and 6% suggested up to 30% was reasonable.

Other ideas for education programs that support and add value to rebate programs:

- 26% of respondents were interested in being a part of a street or community program that looks at sustainable water use similar to the Sustainability Street program which brings neighbours together, with 31% maybe interested and 43% not interested.
- 20% of people felt that education and information was important.
- Community based projects, incentive programs and school programs are viewed as important.

A wide range of other ideas were suggested including:

- 20% of those surveyed felt that education and information was important e.g. what does the WELS rating mean, break down water jargon. What is the best to buy? Make it easier to see how much water we are using on a regular basis. Talk to people more

regularly. Provide more information for younger people e.g. on-line, facebook. Provide small stickers to all public facilities such as toilets, showers, basins and also to hotels and resorts so that they can be displayed above taps. Provide a basic brochure. Switch to water savings in all rate notices.

- More community-based projects e.g. a handyman service to check for leaking taps, rather than having to call in a plumber. Could do whole areas and provide a free assessment at home to tell people what they need to do. Show how your household compares with similar households. Send phone/email notifications when coming close to allowable amounts. Attend community gardens (small parks like the new one at Tumbulgum) good for socialising and sharing tips.
- More incentive programs e.g. reward those that do the right thing and save water. Give out car wash vouchers or pet wash vouchers if residents reduce their water usage by say 10-20%. Or a \$20-\$50 credit on their next bill and more for commercial users.
- Support school programs e.g. introduce the Kenyan Safe Water project into local schools.

OPTIONS:

The activities proposed in year two of the Residential Water Saving Program are outlined below. These activities are based on the performance of the existing residential rebate in its first year, rebate audit results and feedback received during the community survey.

CONCLUSION:

Proposed Residential Water Saving Program for 2012-2013

Based on the performance of the existing residential rebate to date, the rebate audit results and the key findings of the community survey, the following activities are proposed for year two of the Residential Water Saving Program in 2012-2013.

Continue the existing residential rebate with some tightening of conditions to ensure that the products being installed deliver the expected water savings.

The existing residential rebate for shower heads, aerators and spouts/mixers has been well received and experience elsewhere suggests that the uptake rate will continue to increase as more retailers and customers become aware of it. The proposal is to continue the rebate in year two of the program with the following changes to address the product performance issues identified during the audits and clarify the rebate conditions.

- Specify that the installation of products must now be carried out by a licensed plumber.
- Increase the maximum rebate to \$100 rather than the existing maximum of \$70.
- The maximum WELS rating for shower heads is 3-stars but these are available with different flow rates. Shower heads must now be 3-star WELS rated and 6 to 7.5L/min rather than 3-star WELS rated and 9L/min.
- Aerators must now be 4-star WELS rated (6-7.5L/min) rather than 3-star WELS rated (7.5-9L/min).
- Add 4-star WELS rated flow control valves (in-tap and in-line types) to eligible products.
- Specify that restrictors are not eligible products because they can be removed easily, significantly affecting product performance.

In addition to the above changes to the rebate, Council will obtain and audit a selection of 3-star WELS rated (6-7.5L/min) shower heads currently available from local retailers, to determine what mechanism they employ to reduce the flow rate. Shower heads that employ restrictors that can be removed easily by the customer may be disqualified from the rebate.

Introduce a new residential rebate for dual flush toilets.

The community survey identified considerable support for a discount on dual flush toilets. Experience with businesses in the Tweeds Top 20, Council's Own Top 20 water users and customer inquiries suggest that many customers still have outdated and inefficient single flush and old dual flush toilets (4.5/9L flush). Replacing a single flush toilet (11L flush) with a new dual flush toilet (3/4.5L flush) has the potential to save the average household about 40kL/annum. This makes a rebate on dual flush toilets very cost effective.

The following is proposed.

- Introduce a rebate/discount on dual flush toilets.
- To be eligible, the customer must replace a single flush toilet (11L flush) or old style dual flush toilet (4.5/9L flush) with a new 3/4.5L dual flush toilet.
- Maximum of 2 toilets eligible for the discount per household.
- Rebate available for cistern/s only and/or whole suite i.e. cistern and pan.
- Cistern/s and suites must be 4-star WELS rated.
- Installation of cistern/s and pan/s must be carried out by a licensed plumber.
- Rebate would be 50% of the cost, including installation, up to a maximum of \$100 for a cistern and up to a maximum of \$200 for a whole suite i.e. cistern and pan.
- Uptake would be monitored and if necessary, a prize such as a rainwater tank could be offered to encourage participants.

Introduce a 'Meet your Meter... and Win' for residential water users, to encourage householders to monitor their water use and make water savings.

The community survey and studies elsewhere have found that positive reinforcement is considered to be very important to achieving sustainable changes in peoples' attitudes to conserving water. The intention of the 'Meet your Meter... and Win' is to reward residential water customers for taking water saving actions at home and to build and promote this proactive group to other community members to bring about change.

The 'Meet your Meter... and Win' competition would be trialled initially once a month, encouraging households to read their water meter at the beginning and end of a nominated week. Participating households would enter their details and their meter readings on-line or on a voucher available in the Tweed Link. The details would include the number of people in their household so that each month, the family with the lowest water use per person would win a small prize such as a farmers market voucher or similar to the value of \$50. If no one claims the prize in any month, it jackpots to say, \$100 the next month.

Everyone who enters the competition would go into a six-monthly draw to win a front loading washing machine to the value of \$600. The winner's meter readings would be confirmed before awarding a major prize.

As well as providing positive reinforcement, encouraging households to monitor their water use and read their water meters will support Council's other water education initiatives and reinforce recent changes to water consumption bills. This type of program has been shown to work successfully in other local government areas.

Introduce a web-based register for residential rainwater tanks.

Although the Demand Management Strategy did not support the introduction of a rebate on residential rainwater tanks to encourage their installation, it did recommend changes to Council's Policy on rainwater tanks to include voluntary minimum volume and roof catchment specifications. The amended Policy entitled *Rainwater Tanks in Urban Areas* was adopted by Council on 20 September 2011.

Generally, rainwater tanks under 10,000 litres do not require Council approval so there are no records of these installations. Council has no way of collecting information about the types, volumes and uses of tanks being installed on existing homes and businesses.

To assist with the gathering of relevant data and to check the extent to which Council's Policy is being followed, a voluntary on-line register of rainwater tanks is proposed. Participants would enter their name, property details and key information about their tank system directly into the register. To encourage participation, everyone who registers their tank would go into a six-monthly draw to win a front loading washing machine to the value of \$600.

Develop clear links with Council's 'Target 180' campaign.

The aim of the Target 180 campaign is to reduce residential water consumption in the Tweed Shire. It sets clear, voluntary targets for daily water use expressed in litres per person per day. The campaign will run over a number of years up to the end of 2020 with the intention of slowly reducing residential water use as the years go by. The starting target is 180L/person/day by the end of 2013, followed by a lower target of 170L/person/day by the end of 2016 and finally a target of 160L/person/day by December 2020.

A short description of the Target 180 campaign and the distinctive logo are included on new water consumption bills being sent to all residential water customers from June 2012. The campaign hopes to raise customers' awareness of the importance of being water wise. The key message is that if everyone does their bit, together we can make a big change in the amount of water we waste unnecessarily.

The water consumption bills encourage residential customers living in single and multi-unit homes to check their daily water use and compare this against the 180L/person/day target for water wise households. To do this, the customer simply needs to take their "daily water usage this bill", located on the front page of their bill, multiply it by 1000 to convert the kilolitre (kL) amount to litres (L) and divide this figure by the number of the people in their household.

It is proposed that the introduction of the Target 180 campaign will be gradual at first, starting with the new water bills, ramping up over the next year. The logo will be incorporated in all water-related advertisements, bill inserts, newsletters, on Councils' website and in effect, all water saving and Water Unit literature and promotional materials.

Clear links will be developed between Target 180 and other residential demand management programs and initiatives outlined in this report.

The logos for the Target 180 and subsequent stages of the campaign are shown below.



New water consumption bill format, quarterly billing and pro-rata charging for residential water consumption.

From June 2012, new-look water consumption bills are being sent to all residential water customers, businesses and other organisations. The bills have been extensively modified to provide all water users with clear, more detailed information about their water use. As a result, it is hoped that all water customers will be better able to make informed decisions about their water use practices and identify when improvements might need to be made.

The next step in providing customers with better information about their water use will occur in mid 2013 when Council introduces quarterly water meter reading and water consumption billing. At present, Council reads water meters for most users every six months. The progression to quarterly meter reading and three-monthly bills will mean that customers get feedback about their water use more frequently and problems such as leaks can be addressed more quickly.

Along with quarterly meter reading, pro-rata charging for water consumption will be introduced. This means that water use will be charged at the unit rate (\$/kL) that applies in the year that the use actually occurred. This means a more equitable charging regime for everyone.

These changes will assist in bringing Council's water consumption billing regime in line with NSW Office of Water Guidelines. Importantly, water customers will have the information necessary to better respond to Council's water saving initiatives.

Increase promotion and access to information using simple messages and untapped opportunities such as media, Council's website and involving other stakeholder groups.

The community survey revealed that many people were not aware of Council's residential water saving rebate but would participate in it if they knew more about it. In year one, promotion of the rebate focused on attendance at community events, articles and advertisements in the Tweed Link and occasional media releases. The rebate was

promoted widely to plumbers, plumbing retailers and real estate agents based in the Tweed Shire through mail-outs and a public information session which was held on 20 March 2012. Posters, fliers and application forms were also distributed in person to the major plumbing retailers for use in their window displays as information for their customers.

- Additional promotional opportunities will be investigated with a view to targeting new and harder-to-reach audiences. Simpler advertisements, with pictures of products and a few key messages only, will be trialled.
- Advertising and editorial in the Tweed Link will be increased and media releases will be employed on a more regular basis to take full advantage of these opportunities. The possibility of a regular “water column” in the Tweed Link will be explored.
- Council’s website currently provides limited information about water saving products and solutions. A link to the savewater.com website, which offers this kind of information, was posted to improve the situation. It is proposed that Council's website content will be continually improved over the next two years. It is envisaged that the upcoming Council-wide update/re-design of the website will provide an opportunity to reorganise the demand management, water saving and related education content to make this information more readily accessible by the public. The Water Unit is also exploring the idea of an interactive “web portal” which will ultimately link customers with up to date water meter readings, water quality results and other useful water-related information.
- In an effort to further promote the residential rebates, other opportunities for working with product manufacturers, retailer groups, chambers of commerce, industry associations and other stakeholders will be explored. They may be able to assist in spreading awareness about what Council is offering and offer information and education about water conservation.

Investigate alternative rebate payment options and assistance for cash-poor and disadvantaged customers.

A large number of people surveyed said that they would prefer to get a discount directly at the store when they purchase eligible products rather than applying to Council to receive their rebate. Others suggested that the rebate amount should be deducted from their water consumption bill rather than receiving a cheque in the mail.

At present, the residential rebate is calculated when the application form is processed in-house. The calculated amount is checked, authorised and then a cheque is issued and sent to the applicant.

Alternative payment methods and in-store options will be investigated with a view to meeting the different needs of customers. Since many people pointed out that red tape and too much paperwork would deter them from taking up a rebate, enabling participants to claim their rebate/discount in-store might also result in a higher participation rate.

The community survey also found that for many people, the initial financial outlay deterred them from purchasing water saving products, despite the offer of a rebate.

Ways to assist cash-poor customers will be investigated so that they can also benefit from the water saving products on offer.

Develop partnerships and other options to deliver a cost-effective water use assessment and installation service to residential homes.

In year two of the residential rebate program it will be a condition of the rebate that the installation of products must be carried out by a licensed plumber. This requirement means that the installation costs associated with both, the existing shower head rebate and new dual flush toilet rebate are intrinsic to both schemes.

As indicated by the community survey, a retrofit service would have considerable public support, in particular from elderly, time-poor and cash-poor customers. The proposal is to provide a household water assessment and installation service that would add value to both residential rebates and increase the take-up of water saving products by residential water users. It is envisaged that the service could also provide assistance with fixing minor leaks and distribute information about water saving options and solutions.

Using partnerships with local plumbers and plumbing retailers, the aim would be to design a retrofit service that is more effective in reaching customers and more affordable for them. It is anticipated that the retrofit service will take approximately eight (8) months to investigate and plan. If appropriate and cost effective, the service could be rolled out towards the end of year two or in year three of the Residential Water Saving Program.

Research the feasibility of a rebate for residential rainwater tanks in year three of the Residential Water Saving Program.

While the Demand Management Strategy did not support the introduction of a rebate on residential rainwater tanks, state and federal government rebates available at that time may have influenced this decision. Currently there is no funding assistance for the installation of rainwater tanks and the community survey clearly indicated that a Council rebate for tanks would be well received and supported.

It is not proposed to offer a rebate on rainwater tanks in 2012-2013 but the feasibility and in particular, the cost and governance implications of offering such a rebate in year three of the Residential Water Saving Program will be fully investigated.

Continue to build community awareness and research additional ways to reward and promote positive behaviour change.

Additional opportunities for fostering community awareness of demand management, water conservation and how to reduce unnecessary water use will be researched and pursued. The community survey highlighted the fact that many people are keen to get more information about saving water, what is possible and how much it might cost them.

It is proposed to produce a regular newsletter called "Water Matters" that would be mailed out to water users with their water consumption bills. This publication will present an extra opportunity to showcase current water saving initiatives.

As part of a WASIP (Waste and Sustainability Improvement Payment) funded project, ten (10) street banner poles are to be erected in five pairs at strategic locations in the shire. The banners will be available for Council use only, to promote environmental projects and key events. These banners and conventional street banners are another way that the water saving messages can be conveyed to the community.

A suitable ambassador to promote the residential water saving programs and use their status to influence change will be sought.

New ways of rewarding residential water customers for taking water saving actions will be considered and developed if appropriate and cost-effective.

Some local water utilities have achieved a positive response to the distribution of low-cost water saving products and/or branded products used to raise awareness of the issues at hand. One example is the mail-out of low-cost shower timers with a cardboard backing suitable for a message and logo to all residential water users in the shire. This kind of promotion might link-in well with the Target 180 campaign or the launch of the residential retrofit service. The feasibility of this kind of promotion will be assessed further.

Monitor and evaluate the impact and effectiveness of all rebates and supporting activities to assist with the design of the Residential Water Saving Program in year three.

The performance of both rebates (shower head and dual flush toilet) will be audited in April/May 2013. Uptake rates and community feedback will be monitored and recorded on an ongoing basis. Further community engagement may be considered in the lead up to the second year review of the Residential Water Saving Program. Water consumption by participating households will continue to be monitored and actual water savings will be calculated.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The Residential Water Saving Program including rebates/discounts, associated activities and prizes are funded from the three-year Demand Management budget adopted by Council along with the Demand Management Strategy Implementation Plan on 17 May 2011.

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
- 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.1 Deliver Demand Management Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Residential Water Saving Program Survey, Summary Report, May 2012 (ECM52085066).
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REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS

42 [EO-CM] Creation of Easement over Lot 5 in DP828639 and Lot 382 in DP755740, Banora Point

SUBMITTED BY: Design

FILE REFERENCE: D94/0015



Civic Leadership

SUMMARY OF REPORT:

Council has provided Modified Development Consent to the owners of Lots 5 in DP828639 and Lot 382 in DP755740 which inter alia includes a condition relating to the creation of a traversable public pedestrian access to and along the foreshore of the Tweed River adjacent to the land subject to the development, located on the Pacific Highway at Barneys Point.

The applicant has now submitted an application for the creation of the easement together with a Transfer Granting Easement to be lodged and registered at Land and Property Information (LPI), Sydney. The Transfer Granting Easement will create a Right of Footway 3 wide over Lot 5 in DP828639 and Lot 382 in DP755740 benefiting Tweed Shire Council which satisfies the consent condition. The Transfer Granting Easement will require the endorsement of Council under Common Seal prior to registration by the applicant.

RECOMMENDATION:

That Council:

1. Provides its consent to the Plan of Easement and Section 88B Instrument creating a Right of Footway 3 metres wide over Lot 5 in DP 828639 and Lot 382 in DP755740; and
2. All documentation be executed under the Common Seal of Council.

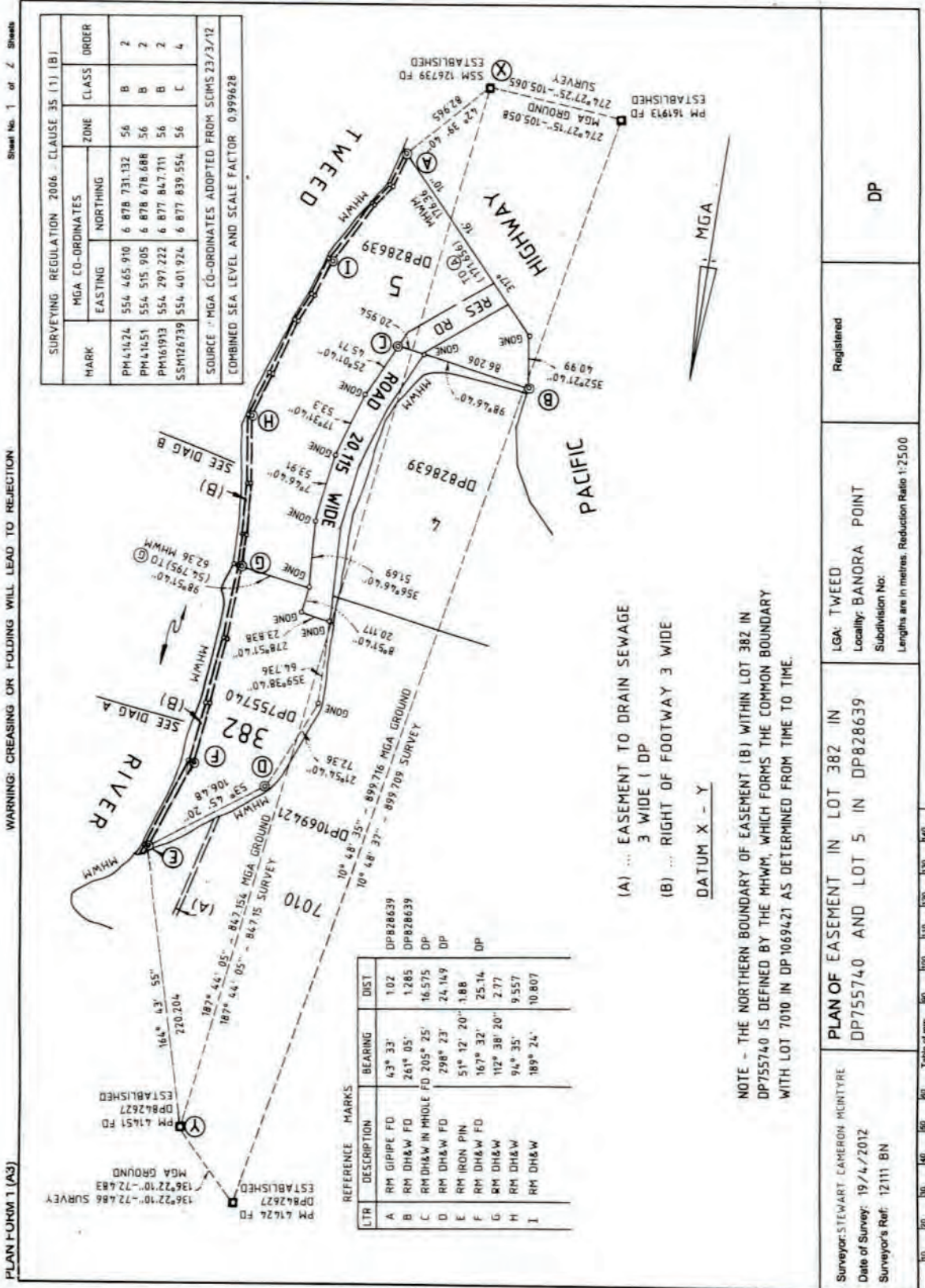
REPORT:

Council has provided Modified Development Consent to the owners of Lots 5 in DP 828639 and Lot 382 in DP 755740, located on the Pacific Highway at Barneys Point, which inter alia includes the following condition:

"14. Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 5 Dp828639 and Lot 382 DP 755740 being the land the subject of this development. A public benefit covenant (benefitting (sic) Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land."

The applicant has now submitted an application for the creation of the easement together with a Transfer Granting Easement to be lodged and registered at LPI, Sydney. The Transfer Granting Easement will create a Right of Footway 3 metres wide over Lot 5 in DP828639 and Lot 382 in DP755740 benefiting Tweed Shire Council which satisfies the consent condition. The Transfer Granting Easement will require the endorsement of Council under Common Seal prior to registration by the applicant.

Below is a copy of the Plan of Easement showing (B) as the Right of Footway 3 metres wide:

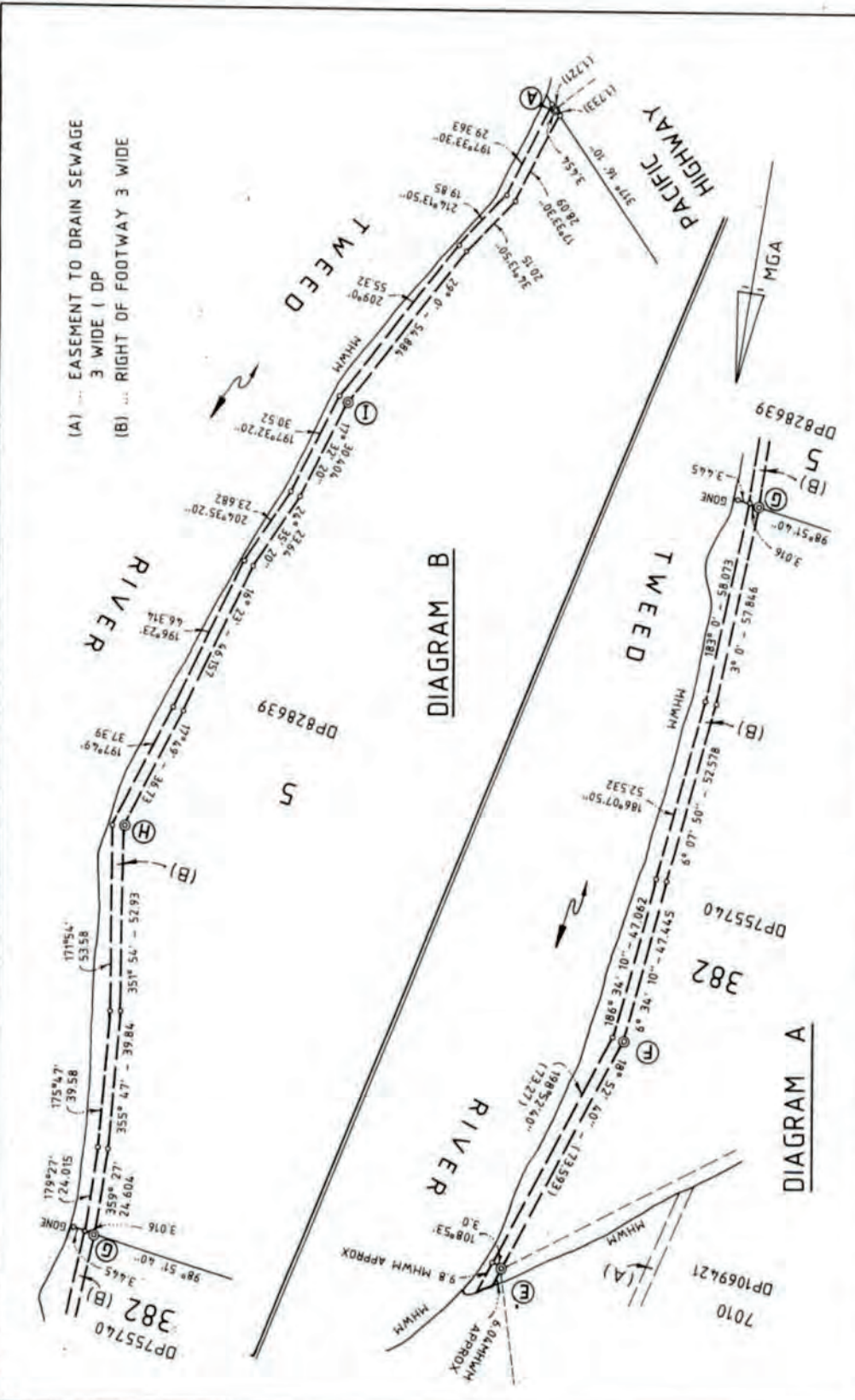


Sheet No. 2 of 2 Sheets

WARNING: UNDESIRING USE FOLLOWING WILL LEAD TO REJECTION

PLAN CURVE 1 (2)

- (A) ... EASEMENT TO DRAIN SEWAGE
3 WIDE 1 DP
- (B) ... RIGHT OF FOOTWAY 3 WIDE



Surveyor: STEWART CAMERON MCINTYRE Date of Survey: 19/4/2012 Surveyor's Ref: 12111 BN	PLAN OF EASEMENT IN LOT 382 IN DP755740 AND LOT 5 IN DP828639	Registered	DP
LGA: TWEED Locality: BANORA POINT Subdivision No: Lengths are in metres. Reduction Ratio 1:1000			

OPTIONS:

Not Applicable.

CONCLUSION:

It is recommended that Council approves the creation of the Right of Access over Lot 5 in DP828639 and Lot 382 in DP 755740 and endorses the Transfer Granting Easement under Common Seal of Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable. No cost to Council.

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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43 [EO-CM] Brookers Road, Upper Crystal Creek - Road Renaming

SUBMITTED BY: Design

FILE REFERENCE: GS5/1 Part 7



Civic Leadership

SUMMARY OF REPORT:

A written request has been received seeking to change the name of Brookers Road, Upper Crystal Creek to "*Bookas Road*".

It has been suggested that the road was originally intended to be called Bookas Road, after the family who have lived on the road continuously since 1951, but was spelt incorrectly.

It is recommended that Council publishes its intention to rename Brookers Road to "*Bookas Road*" seeking public submissions or objections to the proposal.

RECOMMENDATION:

That Council

1. Publishes its intention to rename Brookers Road, Upper Crystal Creek to "*Bookas Road*", allowing one month for submissions or objections to the proposal.
2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 2000.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act 1993, because it contains:-
 - (a) personnel matters concerning particular individuals (other than councillors).

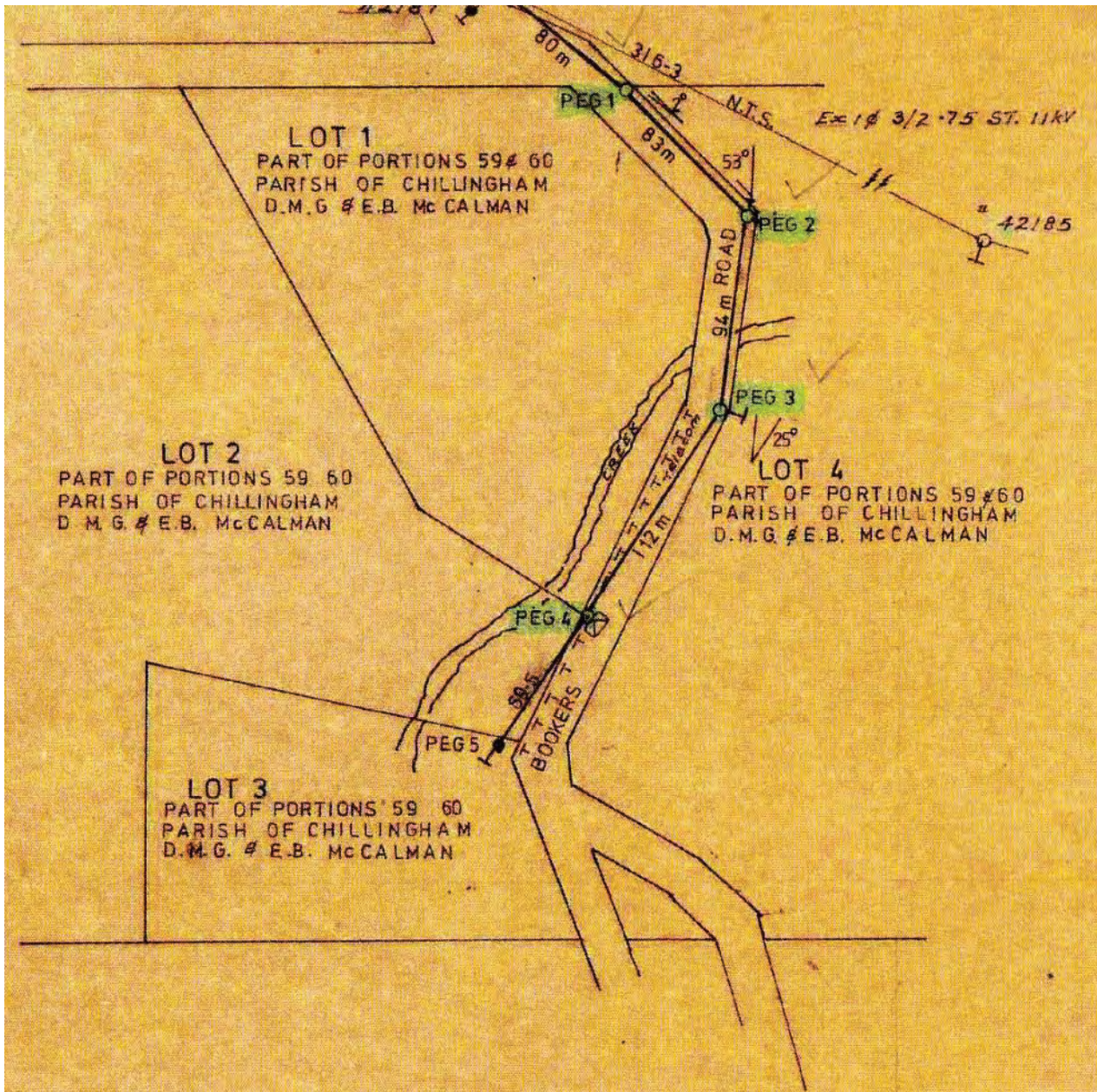
REPORT:

A written request has been received seeking to change the name of Brookers Road, Upper Crystal Creek to "*Bookas Road*".

It has been suggested that the road was originally intended to be called "*Bookas Road*", after the family who have lived on the road continuously since 1951, but was spelt incorrectly.

After a search of Council records it was noted that the road was referred to on several occasions and noted on several plans as "*Bookas Road*" which lends credence to the belief that the road may in fact have been misspelt at some point and continued to be referred to as Brookers Road thereafter. Please refer to the plan shown below.

Close up of road identification from the plan shown above.



William Booka (1881-1936) was a South Sea Islander who arrived in Queensland in the late 1800's as an indentured labourer. The name Booka may have been an islander name although it also has a coastal aboriginal meaning of Blackbutt tree which indicates that William may have been given this name on his arrival to Australia.

The family of William Booka feel that it would be a fitting time to rename the road to coincide with the 150th Anniversary of the arrival of South Sea Islanders on the Queensland coast as indentured labourers on the plantations which will be held in 2013.

There are approximately 10-12 properties on the road that may be affected by the change in road name. Whilst Council will notify all relevant authorities such as Land and Property Management (Guras, Central addressing database), Australia Post and Emergency Services it will be up to the individual land owners to update their addresses with other

services such as gas and electricity providers, Insurance companies and Roads and Maritime Services.

A notification of the proposal would be sent to each affected property owner requesting their comments and submissions regarding this matter along with a notice in the Tweed Link seeking public comment.

CONCLUSION:

It is recommended that Council publishes its intention to rename Brookers Road to “*Bookas Road*” seeking public submissions or objections to the proposal.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Streets and Roads Version 1.1

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.5 Undertake road naming

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment** – Letter of Request to Change Road Name (ECM 50825440)
-

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44 [EO-CM] Kingscliff Street, Kingscliff - Application for Road Closure

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/6



Civic Leadership

SUMMARY OF REPORT:

Council has received an application to close and purchase an unnamed road reserve which runs off Kingscliff Street, Kingscliff between Lot 6 in DP 533861 and Lot 7 Section 16 DP 758571.

RECOMMENDATION:

That:

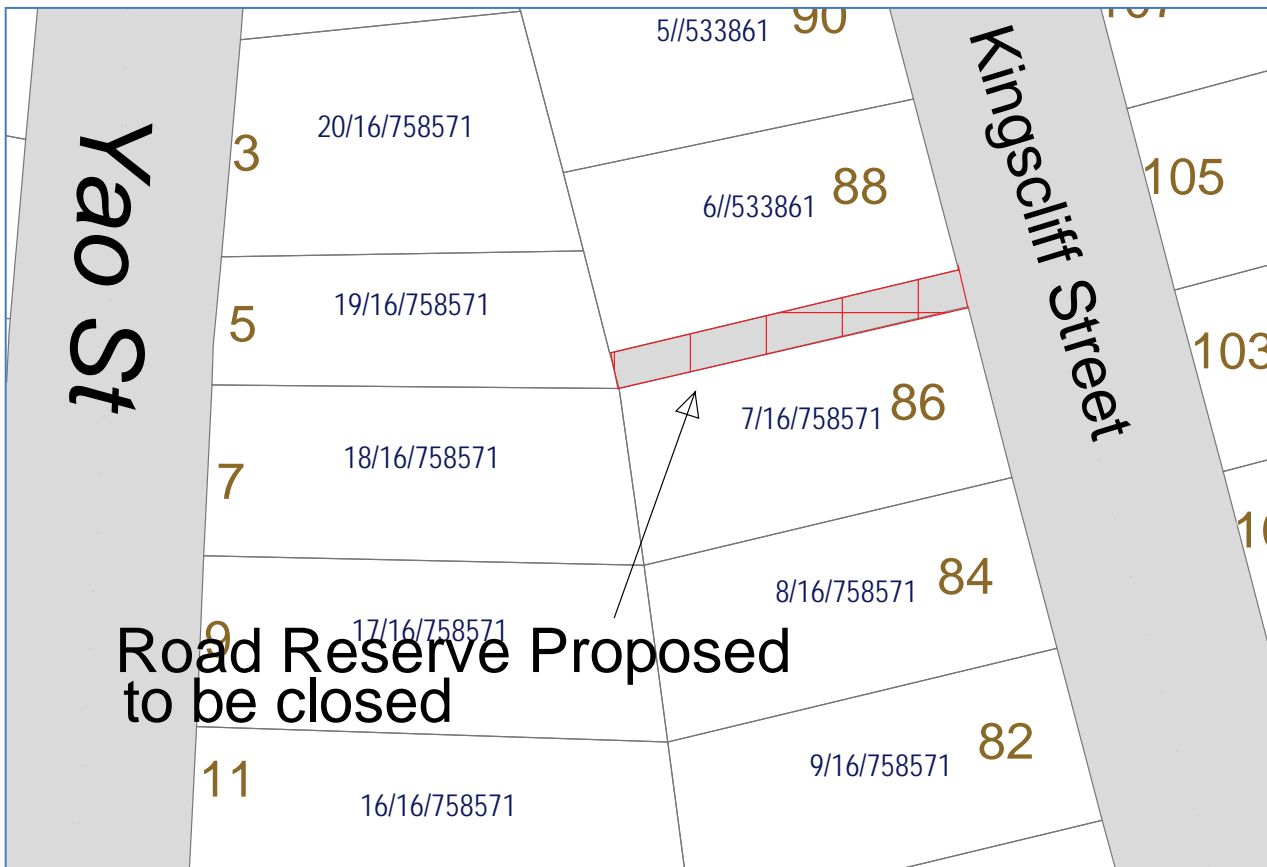
1. Council approves advertising the proposed closure of the road reserve which runs between Lot 6 in DP 533861 and Lot 7 Section 16 DP 758571 at Kingscliff.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act 1993, because it contains:-
 - (a) personnel matters concerning particular individuals (other than councillors).

REPORT:

Council has received an application to close and purchase an unnamed road reserve which runs off Kingscliff Street, Kingscliff and runs between Lot 6 in DP 533861 and Lot 7 Section 16 DP 758571.

The road reserve is currently unformed however is used as a public pathway access to Yao Street Kingscliff through the property located at the rear of the road reserve (Lot 19 Section 16 DP 758571) which is Council owned land currently classified as Operational.

Lot 19 is zoned open space and is currently undergoing re-zoning in the draft Tweed LEP 2010. Upon re-zoning the property will be placed on the market for sale after which it will no longer be accessible to the public.



The applicant, being the owners of Lot 7 Section 16 DP758571 have to date experienced several anti social incidents involving late night vagrancy and alcohol induced violence. The applicant is seeking to close this section of road reserve to eliminate the problem and provide privacy and security to their property.

The owners of Lot 6 in DP533861, Department of Housing, have been contacted by Council officers seeking their consent to the closure and private purchase and provided with the opportunity to be included in the application to close and purchase the half section of road reserve adjoining their property. To date no correspondence has been received from Department of Housing and it can therefore be concluded that they have no objection to the closure and purchase of the full section of road reserve by the owners of Lot 7.

An inspection of the site has been conducted and it was found that the only Council infrastructure that may be affected by the closure was the location of a bus stop on Kingscliff Street which is accessed by members of the public via the pathway from Yao Street. This would be cause for objection to the closure under normal circumstances however given that the access will be removed from the public upon the rezoning and sale of Lot 19 Sect 16 in DP758571 it does not pose an issue for consideration.

There are no environmental impacts apparent at the site.

A copy of the application and associated photos is attached for further information. As this is a private application containing personal information the attachment is of a confidential nature.

CONCLUSION:

As the road reserve is currently in use by the public and is situated in a residential area it would be recommended that the proposed closure be advertised seeking public comment for a period of 28 days.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.1.

b. Budget/Long Term Financial Plan:

Expenditure associated with this application is allowed for within Council's operational budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment** – Letter from Applicant (ECM 9996827).
 - 2. **Confidential Attachment** - Photographs from location (ECM 50870328).
-

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45 [EO-CM] Geles Road, Upper Burringbar - Application for Road Closure

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/15



Civic Leadership

SUMMARY OF REPORT:

Council has received an application to close and purchase part of a Council public road reserve being an area of approximately 719m², which runs adjacent to Lot 1 in DP 593157 a copy of the Deposited Plan follows later in this report.

The applicant has two (2) farm structures constructed on Lot 106 which are used for commercial purposes and encroach onto the public road reserve.

The application is being made pursuant to a condition of consent of DA10/0161.01 noted as Annexure A. The condition of consent provides that the applicant may choose to either; a) apply to close and purchase that part of the road reserve which has been encroached upon or, b) remove the structures from within the road reserve and relocate them fully within the boundaries of Lot 106.

An inspection of the site has been conducted and it was determined that there are no environmental impacts nor any Council or other service infrastructure apparent within or near this part of the road reserve that would have any detrimental impact should that section of road reserve be closed and purchased by the applicant.

RECOMMENDATION:

That:

- 1. Council approves the closure and purchase of the part of the road reserve known as Geles Road upon which an encroachment exists running adjacent to Lot 1 in DP 593157;**
 - 2. The applicant bears all survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
 - 3. The title of the closed road be consolidated with the adjacent land at the applicants cost;**
 - 4. Easements be created over public authority reticulation services, if any; and**
 - 5. All necessary documentation be executed under Common Seal of Council.**
-

REPORT:

Council has received an application to close and purchase part of a Council public road reserve being an area of approximately 719m², which runs adjacent to Lot 1 in DP 593157 a copy of the Deposited Plan follows later in this report.

The applicant has two (2) farm structures constructed on Lot 106 which are used for commercial purposes and encroach onto the public road reserve.

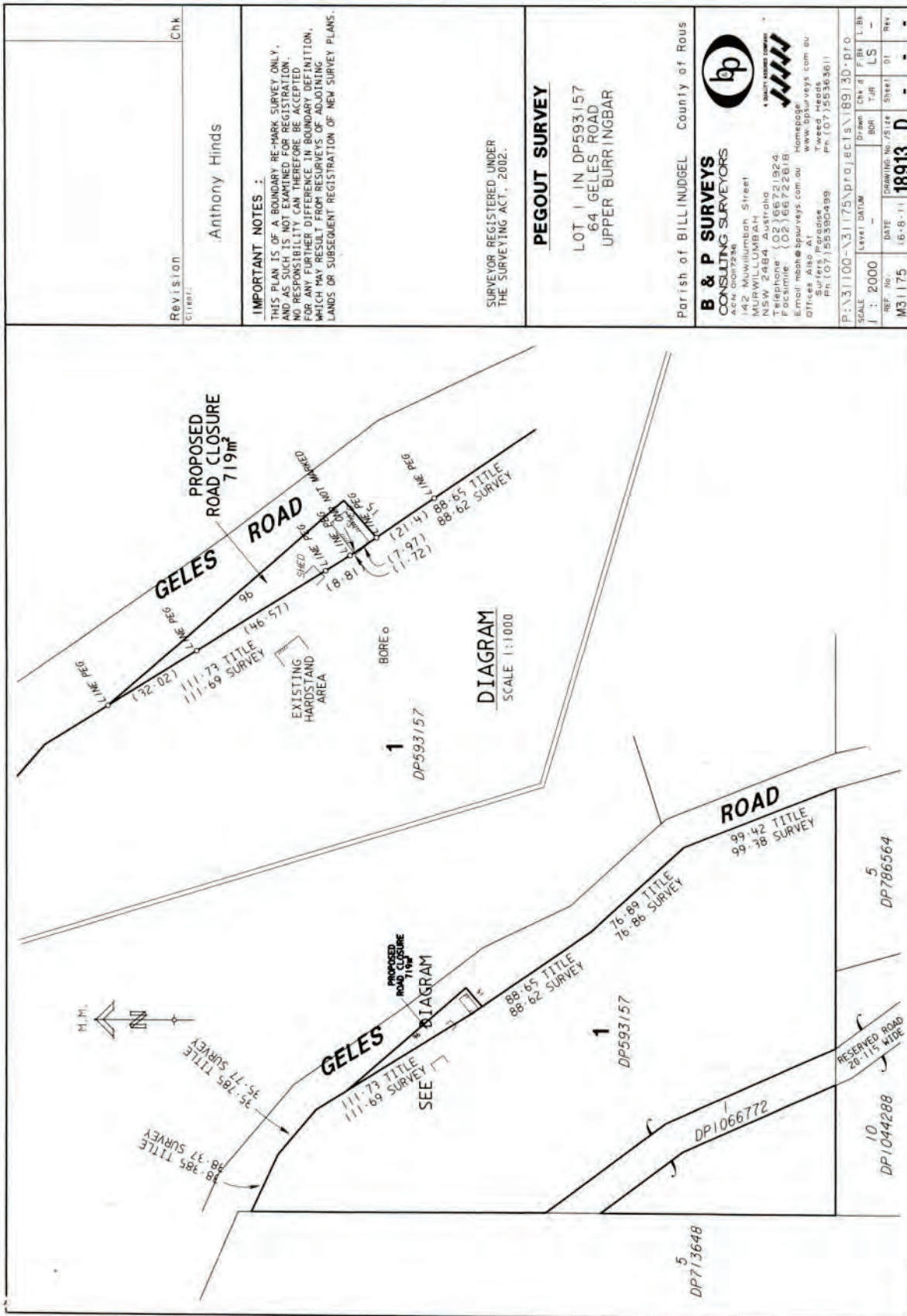
The application is being made pursuant to a condition of consent of DA10/0161.01 noted as Annexure A. The condition of consent provides that the applicant may choose to either; a) apply to close and purchase that part of the road reserve which has been encroached upon, or b) remove the structures from within the road reserve and relocate them fully within the boundaries of Lot 106.

The applicant met with Council officers to discuss the most cost effective option and has decided that the closure and purchase of the road reserve would be the more economical of the two options and the most suitable given the circumstances.

An inspection of the site has been conducted and it was determined that there are no environmental impacts nor any Council or other service infrastructure apparent within or near this part of the road reserve that would have any detrimental impact should that section of road reserve be closed and purchased by the applicant.

The road closure will not impact on the current formation of the road reserve.

Copy of the Survey plan showing the area of road reserve proposed to be closed:



REVISION
Client: Anthony Hinds
Chk

IMPORTANT NOTES :
THIS PLAN IS OF A BOUNDARY RE-MARK SURVEY ONLY, AND AS SUCH IS NOT EXAMINED FOR REGISTRATION, NO RESPONSIBILITY CAN THEREFORE BE ACCEPTED FOR ANY FURTHER DIFFERENCE IN BOUNDARY DEFINITION, WHICH MAY RESULT FROM RESURVEYS OF ADJOINING LANDS OR SUBSEQUENT REGISTRATION OF NEW SURVEY PLANS.

SURVEYOR REGISTERED UNDER THE SURVEYING ACT, 2002.

PEGOUT SURVEY
LOT 1 IN DP593157
64 GELES ROAD
UPPER BURRINGBAR

Parish of BILLINGDEL County of ROUS

B & P SURVEYS
CONSULTING SURVEYORS

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Mulwillumbah NSW 2484 Australia
Telephone (02) 66721924
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Email mb@bpsurveys.com.au
Homepage www.bpsurveys.com.au
OFFICES Also At:
Parramatta Ph (02) 95930499
Plympton Ph (07) 55363611

lp
A QUALITY ASSURED COMPANY

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CONCLUSION:

It is recommended that Council approves the closure and purchase of the section of Geles Road shown on the survey plan provided by B & P Surveys being an area of approximately 719m².

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.1.

b. Budget/Long Term Financial Plan:

Costs to be borne by applicant

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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46 [EO-CM] Land Acquisition for Road Widening - Smiths Creek Road, Smiths Creek

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

Council was required to replace a collapsed culvert in Smiths Creek Road, Smiths Creek, which was completed at the end of 2011.

The collapsed culvert was replaced with a box culvert, which necessitated expanding the infrastructure into surrounding land either side of the road.

Lot 4 DP 860101 straddles both sides of the road at the location of the culvert, and the owner has agreed to the acquisition of the land affected by the infrastructure.

The land is to be acquired as road widening and it is necessary for Council to approve the compensation payable to the landowner and to resolve to execute all necessary documentation under the common seal of Council.

RECOMMENDATION:

That:

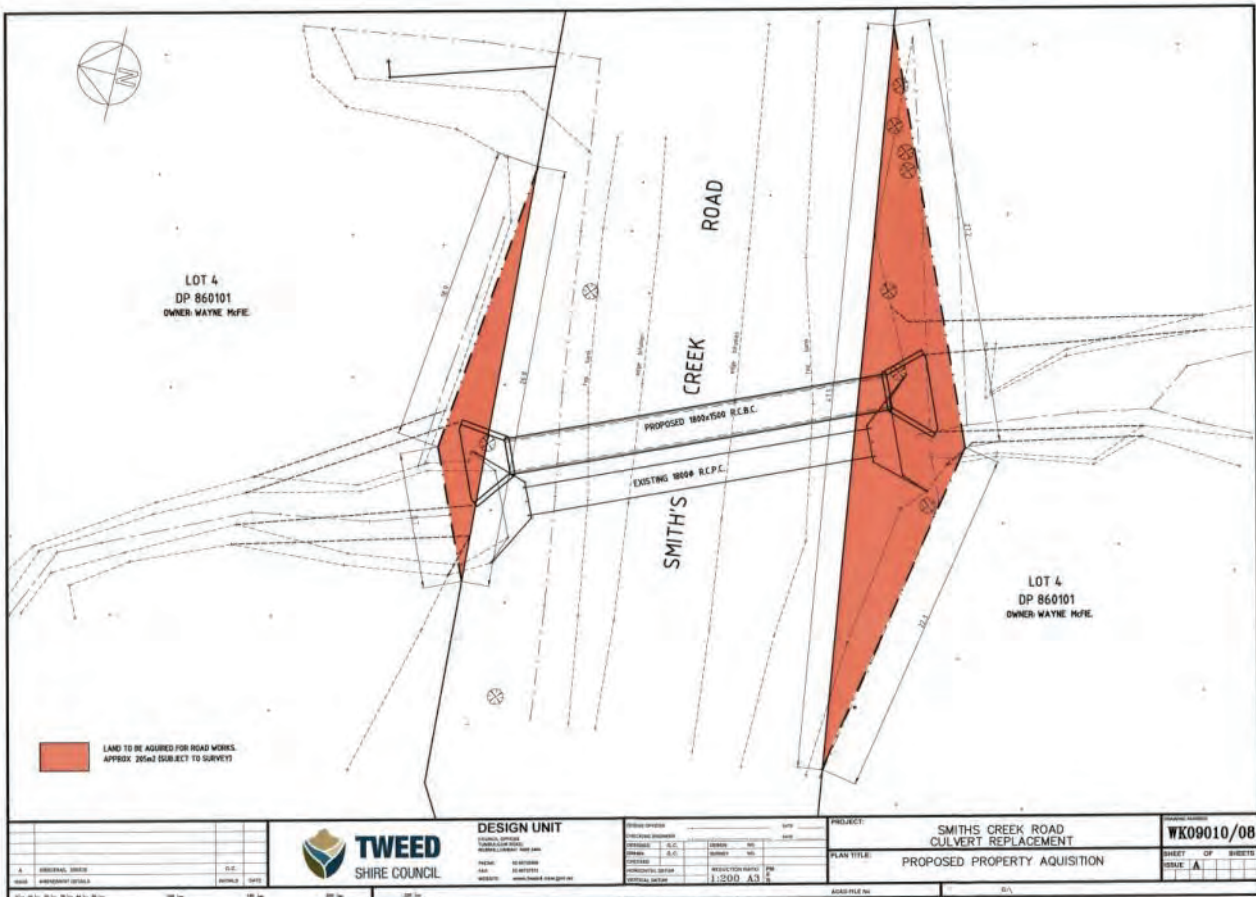
- 1. Council approves the quantum of compensation payable as per the body of the report for Land Acquisition purposes in Lot 4 DP 860101 at Smiths Creek Road, Smiths Creek; and**
- 2. All documentation is executed under the Common Seal of Council.**

REPORT:

Council replaced a collapsed culvert in Smiths Creek Road, Smiths Creek, which was completed at the end of 2011.

The collapsed culvert was replaced with a box culvert, which necessitated expanding the infrastructure into surrounding land either side of the road, being Lot 4 in DP 860101.

See the design plan below:



Lot 4 straddles both sides of the road at the location of the culvert, and the owner has agreed to the acquisition of the land affected by the infrastructure, shaded above.

The two parts of Lot 4, being 49.7m² and 170 m² on a pro-rata basis, equate to \$178.35, however Council has offered the sum of \$1,000 as compensation, and this has been accepted by the landowner.

The land is to be acquired as road widening and it is necessary for Council to approve the compensation payable to the landowner and to resolve to execute all necessary documentation under the Common Seal of Council.

OPTIONS:

Not Applicable.

CONCLUSION:

As per the recommendation

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Acquisition costs are available from the current budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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47 [EO-CM] Queensland Road, Murwillumbah - Property Actions

SUBMITTED BY: Design

FILE REFERENCE: PF4510/70



Civic Leadership

SUMMARY OF REPORT:

The extensions to the Tweed River Regional Museum in Queensland Road, Murwillumbah have triggered several property and titling issues.

Firstly, the extensions, within Lot 1 Section 30 in DP 758739, prompted a survey of the property boundaries to ensure that the proposed extensions would be within the boundaries with the required setbacks.

A survey plan of redefinition has been prepared and is ready for execution and lodgement.

Secondly, the extensions include stormwater infrastructure and soil nails to support a batter which encroach upon the neighbouring property to the north. The landowners have agreed to the creation of an easement for drainage and batter support subject to the payment of compensation.

A plan creating the easement has also been prepared and is ready for execution and lodgement.

Thirdly, during preparatory work for these plans, a search for the title deed to accompany the plans revealed that it could not be located.

An application for a replacement certificate of title for Council's land parcel is required to be lodged, so that when it issues, the two plans can then be lodged for registration.

It is necessary for Council to resolve to approve the redefinition and easement plans, the application for the replacement title deed and to execute these documents under the Common Seal of Council.

RECOMMENDATION:

That Council:

- 1. Approves the plan of redefinition of Lot 1 Section 30 DP 758739;**

2. Approves the creation of Easement for Batter Support and Drainage 1.2 wide within Lot 2 Section 30 DP 758739 and the quantum of compensation payable to the owners of the subject land;
3. Approves the application for a replacement Certificate of Title Volume 7231 Folio 45; and
4. Executes all documentation under the Common Seal of Council.

REPORT:

The extensions to the Tweed River Regional Museum in Queensland Road, Murwillumbah have triggered several property and titling issues.

Plan of Redefinition:

The plan for the land, Crown Plan 33.2112 was prepared in 1938 and lacks suitably updated survey information that can be relied upon to verify the boundaries.

To ensure that the extensions to the Museum are within the property boundaries, and to generate reliable survey data for the property, a survey plan of redefinition has been prepared and is ready to be signed under Common Seal and lodged for registration.

Plan of Easement for Batter Support and Drainage 1.2 wide within

Ongoing stormwater drainage issues over the Museum parcel were identified during the design of the museum extensions and rectification measures were included as part of the proposed design.

These works are stormwater connections to Queensland Road and the construction of a retaining wall around the perimeter of the site which requires excavation, soil nailing and a shotcrete wall and the erection of a perimeter fence.

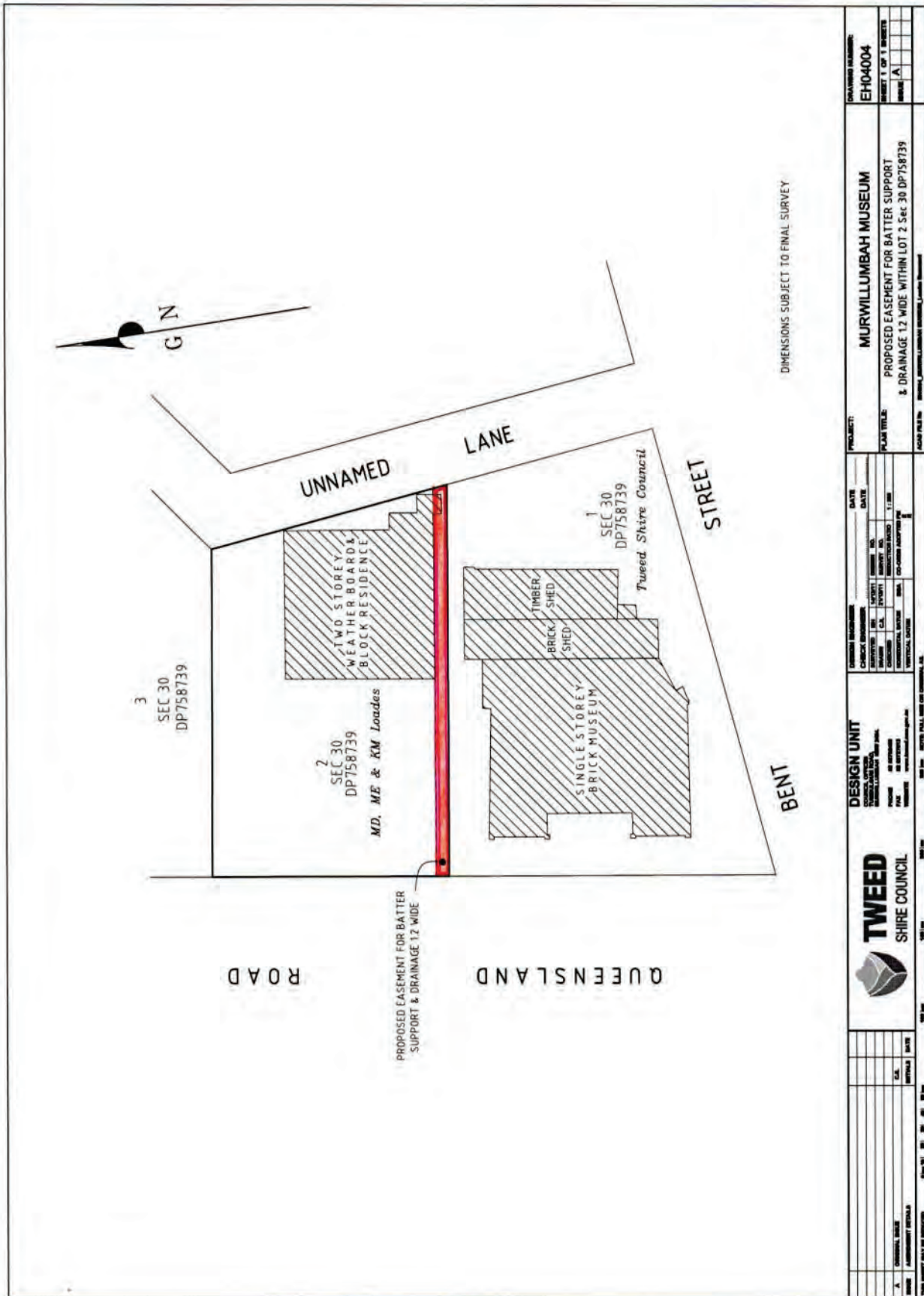
These works require encroachment into the adjoining property, Lot 2 Section 30 DP 758739 and accordingly an easement has been negotiated with the owners.

The diagram below shows the soil nail north sections which also indicate the batter through which the soil nails will be driven to support the batter. The stormwater pipe is shown at the top of the batter:

Development consent was granted on 28 March 2012, and consent condition 63 requires the creation of an easement for batter support and any other easement required to facilitate the works.

The landowners have accepted the sum of \$4,880 in compensation for the impact of the easement within their land and it is recommended that Council approve the quantum of compensation payable to the landowners.

The plan below shows the proposed easement for stormwater and batter support. The easement corridor is shaded:



DRAWING NUMBER: EH04004	
PROJECT: MURWILLUMBAH MUSEUM	
PLAN TITLE: PROPOSED EASEMENT FOR BATTER SUPPORT & DRAINAGE 1.2 WIDE WITHIN LOT 2 SEC 30 DP758739	
DRAWING NUMBER: EH04004	
SHEET 1 OF 1 SHEETS	
SHEET A	
SHEET B	
SHEET C	
SHEET D	
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Certificate of Title Volume 7231 Folio 45

To enable these plans to be registered it will be necessary to lodge an application for a replacement Certificate of Title for Council's land parcel occupied by the Museum.

The title deed is not held with other title deeds for Council land parcels, nor held by the local legal firm who acted for Council previously. A statutory declaration from the law firm states that they do not hold the title deed.

The property file for the museum site shows a copy of the title deed, but does not provide any information relating to the location of the deed.

OPTIONS:

Not Applicable.

CONCLUSION:

Survey definition of the Tweed River Regional Museum Land requires that property and title issues be resolved. An application for a replacement Certificate of Title is required so that when Council has the title deed it will then accompany the plans for lodgement and registration.

It is necessary for Council to resolve to approve the redefinition and easement plans and the application for the replacement title deed and to execute these documents under the common seal of Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The compensation payment of \$4,880 is available in this year's budget as part of the Museum upgrade project.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

48 [EO-CM] Casuarina Way, Kingscliff - Road Closure and Purchase

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/6 Pt 4 & DA08/1141



Civic Leadership

SUMMARY OF REPORT:

The SALT development at Kingscliff was approved by Council in 2003 as a staged development.

Stage 6 of the development, proceeding under DA08/1141 is a minor infill urban subdivision for 37 lots within Lot 940 in DP 1079124 at Casuarina Way, Kingscliff. Approval for this stage was granted by Council on 17 June 2009.

The consultant for the developer has lodged an application for a partial road closure over a section of Casuarina Way that was set aside as road widening to facilitate a future road junction. However, no intersection will be created in the subdivision at this location and it is intended that the stub provided for the intersection will form part of proposed Lot 553 in the subdivision.

Consent condition 83 of the approval requires the developer to lodge an application and pay all relevant fees for the road closure prior to submission of an application for a subdivision certificate.

The area of road reserve in question has been formed as part of earlier stages of the SALT development and therefore raises no environmental concerns, the site does not contain any vegetation of ecological significance and does not provide habitat for rare or threatened species.

Kerb and guttering is in place on the proposed boundary of the road closure parcel, in light of the development consent requirement, notwithstanding that the road closure application is yet to be approved.

The application conforms with Council's Policy for Road Closure and Purchase and it is recommended that Council approves the road closure application and executes all documentation under the Common Seal of Council.

RECOMMENDATION:

That:

- 1. Council approves the closure of part of the road reserve of Casuarina Way, Kingscliff adjacent to Lot 940 DP 1079124;**
- 2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a registered valuer;**
- 3. The title of the closed road be consolidated with the adjacent land;**
- 4. Easements be created over public authority reticulation services, if any; and**
- 5. All necessary documentation be executed under Common Seal of Council.**

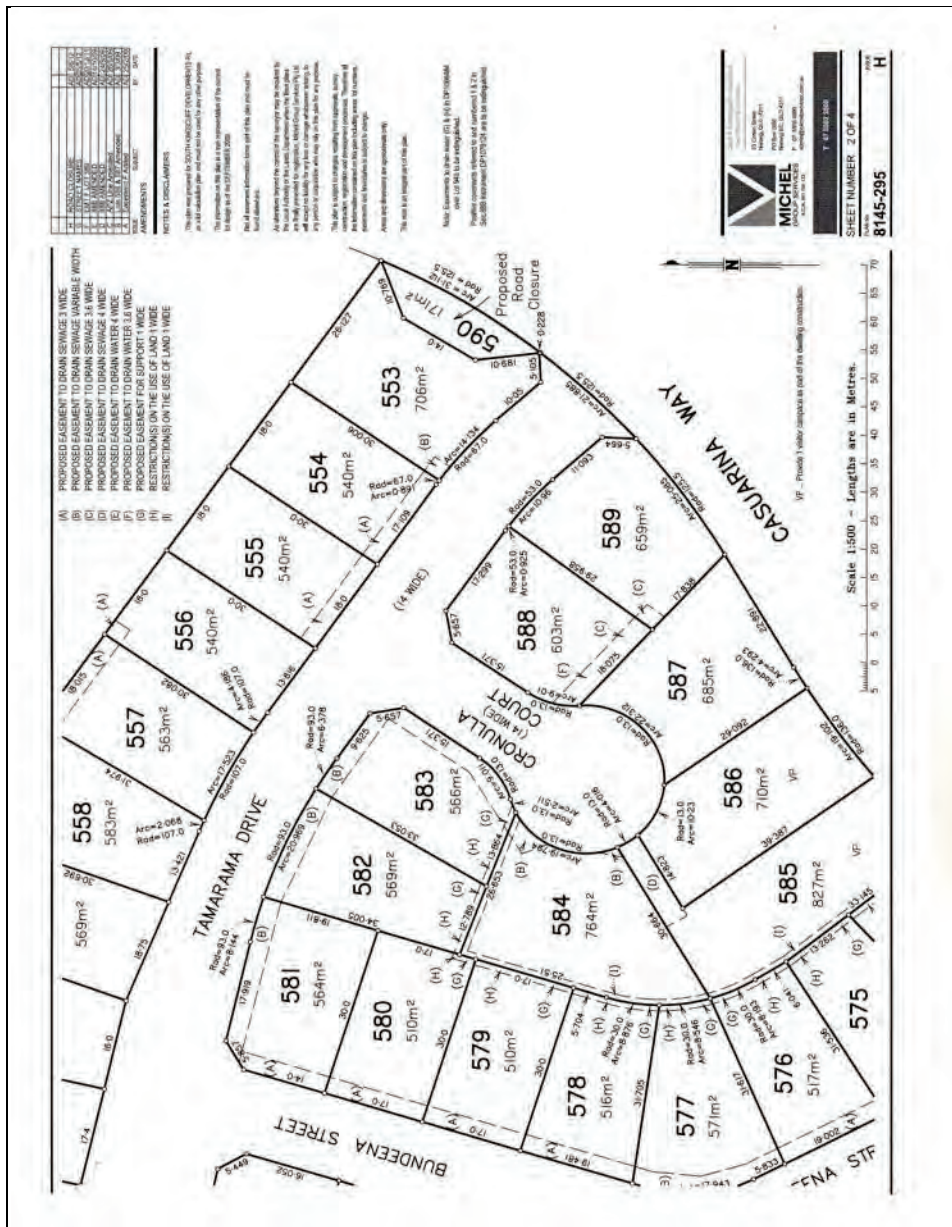
REPORT:

The SALT development at Kingscliff was approved by Council in 2003 as a staged development.

Stage 6 of the development, proceeding under DA08/1141 is a minor infill urban subdivision for 37 lots within Lot 940 in DP 1079124 at Casuarina Way, Kingscliff. Approval for this stage was approved by Council on 17 June 2009.

The consultant for the developer has lodged an application for a partial road closure over a section of Casuarina Way that was set aside as road widening to facilitate a future intersection. However, no intersection will be created in the subdivision and the stub provided for the intersection will form part of proposed Lot 553 in the subdivision.

The proposed road closure has been identified as Lot 590, with an area of 171m², in the excerpt of the subdivision layout plan below:



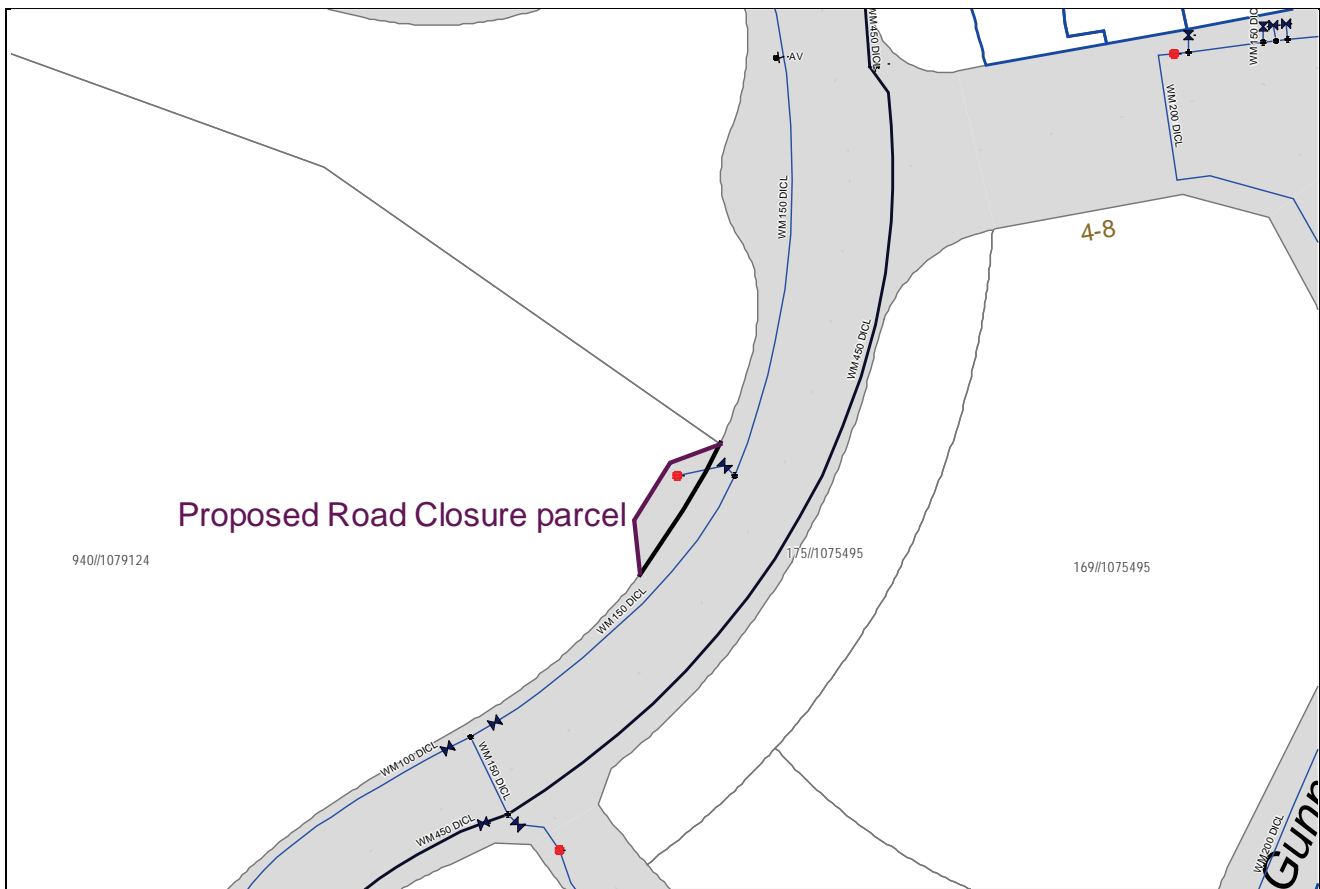
Consent condition 83 of the stage 6 approval requires the developer to lodge an application and pay all relevant fees for the road closure prior to submission of an application for a subdivision certificate.

The area of road reserve in question has been formed as part of earlier stages of the SALT development and therefore raises no environmental concerns, the site does not contain any vegetation of ecological significance and does not provide habitat for rare or threatened species.

The applicant is seeking that payment for the road closure parcel be waived on the basis that the developer dedicated the road widening as part of an earlier stage of SALT. Where such a request has been made previously, it was recommended that Council seek payment in light of the commercial benefit to the developer of retrieving the area as part of a lot to be created in the subdivision, in this case, the land will form part of proposed Lot 553, which is shown in the above plan as having an area of 706m², which will be increased to 877m².

The proposed road closure parcel contains a 100mm ductile iron cement lined water main, connecting a single hydrant within the parcel to a gate valve on the road reserve outside the parcel.

See the water infrastructure indicated below:



There is no other Council infrastructure within the parcel however, it will be necessary for an easement for water to be registered to secure the infrastructure.

The application conforms with Council's Policy for Road Closure and Purchase and it is recommended that Council approves the road closure application.

OPTIONS:

As per the body of the report.

CONCLUSION:

As per the body of the report.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Proceeds from the sale of this land will be credited to the Road Sale Reserve for future road widening and/or acquisitions.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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49 [EO-CM] Adopt a Park Programs

SUBMITTED BY: Recreation Services



Supporting Community Life

SUMMARY OF REPORT:

At its meeting held 17 April 2012 Council resolved that:

"Council brings forward a report on the possibilities of instigating community participation schemes in relation to the Adopt-A-Park program and any other areas potentially appropriate such as Sportsfields / Road reserves / Library and Art Gallery or other green spaces or waterways."

While Council supports a number of volunteer groups (DuneCare, Friends of Pound, Friends of the Gallery), none of the groups have been established by Council. In each case the groups have been initiated from the community.

Council's current practice is to support individuals or groups of individuals that express a desire to undertake activities in Council parks which allows them the opportunity to do so with minimal impact on Council resources or exposure to liability. There currently exists throughout the shire a number of individuals and groups of individuals who undertake minor activities within local parks on an informal basis.

The development of a formalised 'Adopt-a-Park' program could serve as a community participation initiative but require the allocation of on-going staff resources and the development of a framework from which the program would operate.

RECOMMENDATION:

That the report on 'Adopt-a-Park' Programs be received and noted.

REPORT:

Introduction

A volunteer group is a collection of individuals who work together to undertake certain activities for the benefit of the community. Volunteer groups normally set up when there is an identified need within the community that is not being met through any formal organisation or Government Department or there is a perceived or real gap between the need and services provided.

The community and Council has benefited for many years from the significant and generous support and contribution from volunteers within the community to assist in fundraising, operations and maintenance of the Libraries, the Tweed River Art Gallery, and bushland areas within the shire. It is not considered necessary to initiate any additional programs in these areas.

In regards to volunteers working on waterways, Council considered a report on the "Establishment of Volunteer River Bank Clean up Groups" at its meeting of 20 September 2011 following a Notice of Motion. Council resolved at this meeting as follows:

RESOLVED that the report on the Establishment of Volunteer River Bank Clean Up Groups be received and noted.

Adopt-a Park

There currently exists throughout the shire a number of individuals and groups of individuals who undertake minor activities within local parks on an informal basis. These are generally limited to activities such as collecting branches or palm fronds and depositing at a certain site for collection or limited maintenance of plants and garden beds.

At one particular location, a resident had spent considerable time in a park adjoining his property planting and maintaining garden beds and individual plant specimens to a level Council would not generally consider. When the resident relocated, other residents of the area wanted this work to continue and so sought Council's assistance to put systems in place to allow them to take over. The residents involved were inducted in the same manner as other volunteer groups in the Tweed (such as Dune Care) and continued their work.

All volunteer groups need a governing or managing body of some kind and in many cases will require funding, resources and a prescriptive guide to the activities to be undertaken.

To establish volunteer groups for the express purpose of maintaining or developing parks, sportsfields etc, the following issues need to be considered:

- Identification, and harnessing of potential enthusiasm within the community to undertake the works;
- Management of volunteers and the program;
- Insurance requirements for relatively high risk activities such as using machinery or pesticides;
- Training of volunteers;
- Required level of supervision;

- Provision of suitable equipment, protective wear and storage of equipment;
- Development and regulation of Workplace Health and Safety procedures;
- Removal of collected waste; and
- Disposal costs.

Workplace Health and Safety

As of 1 January 2012, Council moved from the NSW Occupational Work Health and Safety Act to the Workplace Health and Safety Act.

Under the new legislative framework, "Person Conducting a Business or Undertaking" (PCBU) replaces the term "Employer" as having the primary duty of care for the health and safety of workers.

The term "Worker" replaces "Employee" as the person to whom a duty of care is owed. Workers include labour hire staff, volunteers, apprentices, work experience, contractors and sub-contractors. Hence Council's level of responsibility for managing the workplace health and safety of volunteers is the same as for employees.

Were Council to consider pursuing a volunteer 'Adopt-a-Park' program, the activities undertaken by the volunteers would need to be restricted to low risk activities that do not require the supply and use of high risk plant such as mowers, chainsaws etc.

Discussion

While Council supports a number of volunteer groups (DuneCare, Friends of Pound, Friends of the Gallery), none of the groups have been established by Council. In each case, as with the examples provided above, the groups have been initiated from the community.

If Council is to actively pursue an Adopt-a-Park program it would be largely for the purpose of providing opportunities for community engagement. This would require the allocation of on-going staff resources for the promotion, management, coordination, training etc of the volunteer groups. The scale and nature of the work undertaken by the groups would also need to be established.

Council's current practice of supporting individuals or groups of individuals that express a desire to undertake activities in Council parks allows them the opportunity to do so with minimal impact on Council resources or exposure to liability.

Council's sportsfields are licensed to sporting clubs and organisations on a seasonal basis to undertake their sport. Council provides a standard level of maintenance to the fields and facilities. The clubs invariably undertake significant work on the facilities to improve them and make them suitable for the playing of their sport or the growth of their clubs. In this way, it may be considered that Council's sportsfields are perhaps the most intensely 'adopted' of all of Council's facilities.

OPTIONS:

Options available to Council are:

1. Continue the current practice of supporting individuals or groups of individuals that express a desire to undertake activities in Council parks.
2. Develop an 'Adopt-a-Park' project which actively seeks to promote and develop community volunteer groups. This option will require the allocation of on-going staff resources and the development of a framework from which the program would operate.

CONCLUSION:

In each case where volunteer groups are operating under Council's auspices, the groups have been initiated from the community and not Council.

Council's current practice of supporting individuals or groups of individuals that express a desire to undertake activities in Council parks allows them the opportunity to do so with minimal impact on Council resources or exposure to liability.

The development of an 'Adopt-a-Park' program could serve as a community participation initiative but require the allocation of on-going staff resources and the development of a framework from which the program would operate.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Would require an on-going allocation of staff resources.

If Council is to pursue an 'Adopt-a-Park' program there will be a requirement to allocate on-going staff resources for the promotion, management, coordination, training etc of the volunteer groups.

For any volunteer program, Council has liabilities under the Workplace Health and Safety Act where "Workers" are defined as the person to whom a duty of care is owed. Workers include labour hire staff, volunteers, apprentices, work experience, contractors and sub-contractors. Hence Council's level of responsibility for managing the workplace health and safety of volunteers is the same as for employees

c. Legal:

Responsibilities under Workplace Health and Safety Act.

d. Communication/Engagement:

Dependent on outcome to be adopted by Council.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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50 [EO-CM] NSW Long Term Transport Master Plan

SUBMITTED BY: Director



Supporting Community Life

SUMMARY OF REPORT:

Council adopted a Public Transport Strategy previously on 19 July 2011 and on 20 March 2012 responded to the NSW Long Term Transport Master Plan discussion paper. On both these occasions Council's key strategy has been to integrate Tweed's bus services into the Queensland TransLink and Go Card System. Analysis of travel patterns has shown that the overwhelming transport issue in the Tweed is to provide an integrated transport system with that operating on the Gold Coast and the rest of South East Queensland.

Transport for NSW has acknowledged Council's position and is pursuing more detailed investigation and analysis of the origin and destinations of people on the Tweed and Gold Coast travelling to work, and for education, shopping and social purposes, both now and in the future. They are also examining the issues for potential NSW border region integration with the South East Queensland TransLink system and the Go Card ticketing system.

RECOMMENDATION:

That Council continue to advocate for integration of bus services in the Tweed area with the Queensland TransLink and Go Card ticketing system.

REPORT:

1. Background

Council adopted the Public Transport Strategy on 19 July 2011 and one of the key strategies is:

"1. Requests the NSW Government integrate the bus services in Tweed Shire into the Queensland 'Trans Link' transportation system."

In March/April 2012 the NSW Government through Transport for NSW issued the NSW Long Term Transport Master Plan discussion paper for comment. Council resolved on 20 March 2012 to provide a comprehensive response which included:

"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."

2. Response from Transport for NSW

On behalf of the Minister for Transport, Steve Enticott, General Manager, Transport Planning, Planning and Programs Division of Transport for NSW has replied to these issues by letter dated 27 March 2012 as follows:

1. *"Transport for NSW is seeking to promote improved public transport in the Northern Rivers Region" as part of the NSW Long Term Transport Masterplan process.*
2. *Tweed Shire Council's issues have been brought to the attention of the Transport Masterplan Team.*
3. *Officers of the Transport Planning and Landuse Branches are examining the Tweed Shire Council Public Transport Strategy to further explore travel transit issues including:*
 - o *The origin and destinations of people on the Tweed and Gold Coasts travelling to work, and for education, shopping and social purposes, both now and in the future.*
 - o *Existing and future volumes of passengers using Coolangatta Airport and where they travel to and from prior to either arriving or leaving Coolangatta Airport; and*
 - o *Issues for potential NSW border region integration with the TransLink system and the Go Card ticketing system.*
4. *The Cross Border Commissioner, Steve Toms will work closely with border communities and stakeholders to strengthen cross border arrangements and improve services such as transport.*

CONCLUSION:

Council has set a clear strategic direction for the provision of public transport services in the Tweed with a principle priority being integration of bus services into the Queensland TransLink and Go Card System. Transport for NSW has acknowledged this issue and their

Planning and Landuse Branch is carrying out further detailed investigation and analysis of this issue. Council awaits the outcome.

COUNCIL IMPLICATIONS:

a. Policy:

Public Transport Strategy.

b. Budget/Long Term Financial Plan:

Indirect impacts on Council long term budget.

c. Legal:

Integration of transport operations across New South Wales and Queensland will require substantial legislative and operational changes in both states.

d. Communication/Engagement:

Council will continue to advocate for integration of transport services for South East Queensland to both state governments and relevant stakeholders.

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
- 2.4.2.1.1 Participate in the Public Transport Committee to advocate for additional investment in transport

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Public Transport Strategy (ECM 47848112).
 2. Council's submission to NSW Long Term Transport Masterplan for NSW (ECM 48914012).
 3. Response from Transport for NSW (dated 27/3/12) (ECM 48391024).
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51 [EO-CM] Annual Indexation of S94 Plan works Program and Developer Contribution Rates

SUBMITTED BY: Planning and Infrastructure



Civic Leadership



Strengthening the Economy

SUMMARY OF REPORT:

This report is for the information of Councillors and summarises the effects of indexation on S94 Plan developer contribution rates for the new financial year. The majority of contribution rates increase by varying amounts, depending on adopted Plan and Program dates. After indexation, the adjusted median increase per lot per contribution is \$22.00.

The indexed contribution rates will come into effect on 1 July 2012.

RECOMMENDATION:

That Council notes the indexation of S94 contribution rates as detailed in this report and in accordance with:

1. The provisions of Regulation 32 of the Environmental Planning and Assessment Regulation 2000,
2. The ABS Implicit Price Deflator (IPD) index as adopted in each S94 Plan, the Tweed Shire Council Land Cost index for 2010/2011 as published in the adopted 2012/2013 Revenue Policy and Statement and adopted in each S94 Plan and
3. The clause entitled "Adjustment of Contribution Rates" as adopted in each S94 Plan.

REPORT:

Background:

Council reviewed all of its contribution plans between July and December 2009 in accordance with a Direction from the NSW Minister for Planning. This was a major undertaking, and to streamline the process the opportunity was taken to standardise Council's disparate S94 plans in line with the then current Department of Planning 'template for a S94 Plan'. The template included a section with reference to indexation of the plan's Works Program. The Environmental Planning and Assessment (EP&A) Act had always allowed for such indexation however the review process revealed that Council had never previously utilised this mechanism to update developer contribution rates, in most cases because the S94 plan did not allow for it, or in one case, because a process had not been implemented to apply the update. Therefore a benefit of the Direction was that this oversight was rectified during the review process.

All of the plans which were reviewed were exhibited for comment and adopted by Council in accordance with the usual requirements of the EP&A Act. The majority of the amended plans were adopted by Council in December 2009.

Annual indexation in accordance with the clause entitled "Adjustment of Contribution Rates" adopted in each S94 Plan and referred to in this report was applied to contribution rates where appropriate in July 2011 and this process is now being repeated for July 2012.

What is a S94 Plan for?

S94 of the Environmental Planning and Assessment Act enables Council to collect money from developers for the provision of additional infrastructure required as a result of that development. It is an attempt to implement a 'user pays' approach and the intention is to ensure that sufficient arterial road capacity, additional open space, community facilities and other community infrastructure continues to be provided by Council, without placing the burden to pay for that infrastructure onto existing residents and ratepayers.

To collect contributions from developers, Council must have a S94 Plan in place which has been adopted in accordance with the EP&A Act and Regulations. The plan must spell out the infrastructure required, how much it will cost, and clearly demonstrate a direct link (nexus) between the required work and the demand generated by the new population as a result of development.

Council currently has 23 active contribution plans, approximately half of these apply to the whole shire, the rest are area-specific plans. The majority of plans levy contributions on residential and tourist development, while others, like the Road Contribution Plan (No 4) and Council Admin Facilities Plan (No 18), also levy contributions for commercial development.

It should be noted that two plans were not updated to utilise the Department of Planning's 'Template for a S94 Plan' during the plan review and therefore do not include the clauses to enable indexation:

- S94 Plan No 27 - Tweed Heads Master Plan - this plan was being updated separately in conjunction with the Department of Planning and was excluded from the general 2009 review, however the Department's review has recently concluded and this plan is now

scheduled for amendment which will include the application of the new template to enable future indexation.

- S94 Plan No 28 - Seaside City - this plan is an unusual case as it collects money on behalf of a developer in accordance with a ruling from the Land and Environment Court and was excluded from the 2009 review.

In addition the following contribution rates were not indexed as part of the annual process this financial year:

Plan	Reason
Section 94 Plan No 5 - Local Open Space	This plan is currently under review, to be exhibited in the near future.
Section 94 Plan No 7 - West Kingscliff (Drainage contribution)	The drainage contribution base rate was revised in the amended version of this plan which came into effect in January 2012. However, indexation <u>has</u> been applied to the open space contribution in this plan.
Section 94 Plan No 10 - Cobaki Lakes	An amended version of this plan was put to the May 2012 meeting for exhibition.

Indices:

The Department of Planning's 'template for a S94 Plan' includes clauses for indexation of the works program broken down in terms of land and non-land components, including a localised 'Land Cost Index'. It is open to Council to use any viable index, provided that it is 'readily accessible'.

Regulation 32 of the Environmental Planning and Assessment Regulation 2000 states as follows:

- (3) *A council may make the following kinds of amendments to a contributions plan without the need to prepare a new contributions plan:*
- (a) *minor typographical corrections,*
 - (b) *changes to the rates of section 94 monetary contributions set out in the plan to reflect quarterly or annual variations to:*
 - (i) *readily accessible index figures adopted by the plan (such as a Consumer Price Index), or*
 - (ii) *index figures prepared by or on behalf of the council from time to time that are specifically adopted by the plan,*
 - (c) *the omission of details concerning works that have been completed.*

Consequently the following indices were selected:

Non land component - IPD (Implicit Price Deflator):

This index is published by the Australian Bureau of Statistics and refers to the value of work done (implicit price deflator). It is referred to as Chain Volume Measures; Engineering Construction; ABS Reference A405071T, ABS Product Number 8782.0.65.001

This index is applied to components of a S94 Plan works program for non-land items such as open space embellishment and the construction of buildings, roads and car parks.

The currently available IPD figures are for December 2011, released by the ABS on 19 April 2012.

Land component - TSC Land Cost Index:

Tweed Shire Council's Land Cost Index is a simple index calculated with reference to the movement in annual median property sale values and is published annually under the heading **Land Cost Indexation** in Council's Revenue Policy.

In 2009, escalating property values in Tweed Shire were of serious concern and price movements were noted well in excess of any non-land related index. It was felt that it was essential that an index that could closely reflect the actual cost to Council of the acquisition of land would be the most appropriate index to use, therefore the TSC Land Index was calculated and is now published annually.

At the time of preparation of this report, the currently available Land Cost Index figures are for 2010/2011, published in Council's Draft Revenue Policy 2012/2013 as exhibited in May 2012.

Effect of indexation on contribution rates:

Plan		Component	Current \$	Per Unit	Rate at 1 July 2012*	Increase per unit	Increase per lot
1	Banora Point Open Space	Structured Open Space	\$1,043	person	\$1,061	\$18	\$35
		Casual Open Space with dedication	\$224	person	\$225	\$1	\$3
		Casual Open Space no dedication	\$686	person	\$691	\$5	\$11
2	Banora Point West Drainage Scheme*	Drainage	\$13,252	HA	\$13,518	\$266	\$26.60
4	Tweed Road Contribution Plan	Tweed Heads	\$815	Trip	\$822	\$7	\$46
		Tweed Heads South	\$1,318	Trip	\$1,329	\$11	\$72
		Cobaki	\$1,377	Trip	\$1,389	\$12	\$78
		Bilambil Heights	\$2,836	Trip	\$2,860	\$24	\$156
		Terranora	\$1,988	Trip	\$2,005	\$17	\$111
		Kingscliff	\$1,136	Trip	\$1,146	\$10	\$65
		Duranbah/Cabarita	1,145	Trip	\$1,155	\$10	\$65
		LAC4: Casuarina	\$1,313	Trip	\$1,324	\$11	\$72
		Pottsville	\$1,284	Trip	\$1,295	\$11	\$72
		LAC3: Koala Beach/Seabreeze	\$1,352	Trip	\$1,363	\$11	\$72
		Murwillumbah	\$1,317	Trip	\$1,328	\$11	\$72
		Rural - Inner East	\$1,807	Trip	\$1,822	\$15	\$98
		Burringbar	\$1,252	Trip	\$1,263	\$11	\$72
Rural - Inner North	\$2,928	Trip	\$2,953	\$25	\$163		

		Rural - Inner West	\$2,239	Trip	\$2,258	\$19	\$124
		Rural - Other	\$2,534	Trip	\$2,555	\$21	\$137
5	Local Open Space	Structured Open Space	\$251	person	\$251	Nil	Nil
		Casual Open Space	\$219	person	\$219	Nil	Nil
7	West Kingscliff	Structured Open Space	\$1,204	person	\$1,211	\$7	\$16.80
		Drainage	\$56,641	HA	\$56,641	Nil	Nil
10	Cobaki Lakes	Community facilities	\$461	person	\$461	Nil	Nil
11	Libraries		\$330	person	\$340	\$10	\$24
12	Bus Shelters	Bus Shelters	\$25	person	\$25.77	\$0.77	\$1.85
13	Eviron Cemetery	Cemetery	\$50	person	\$50.61	\$0.61	\$1.46
15	Community Facilities	Community facilities	\$552	person	\$563.42	\$11.42	\$27.41
18	Council Admin/Tech Support	Admin	\$740.76	person	\$755.26	\$14.50	\$34.80
19	Casuarina Beach/Kings Forest	Community Facilities	\$897	person	\$918	\$21	\$50
		Structured Open Space	\$513	person	\$519	\$5.56	\$13.34
21	Terranora Village	Structured Open Space	\$497.25	person	\$507.20	\$9.95	\$23.87
		Community facilities	\$169.24	person	\$172.63	\$3.39	\$8.13
22	Cycleways	Cycleway	\$188	person	\$192	\$3.77	\$9.05
23	Offsite Parking	Tweed Heads	\$25,323	space	\$25,344	\$21	NA
		Murwillumbah	\$15,907	space	\$15,941	\$34	NA
		Kingscliff	\$27,657	space	\$27,716	\$59	NA
		Bogangar/Cab. Bch	\$27,657	space	\$27,716	\$59	NA
		Pottsville	\$21,216	space	\$21,223	\$7	NA
		Fingal Head	\$2,898	space	\$2,904	\$6	NA
25	SALT Open Space & Associated Carparking	Structured Open Space	\$949	person	\$956	\$7.36	\$17.66
26	Regional Open Space	Structured Open Space	\$1,523.40	person	\$1,554.19	\$30.79	\$73.91
		Casual Open Space	\$434.02	person	\$443.17	\$9.15	\$21.96
27	Tweed Heads Master Plan	Open space and streetscaping	\$616	person	\$616	Nil	Nil
28	Seaside City	For existing subdivisions, excludes open space	\$12,199	person	\$12,199	Nil	Nil
		For new subdivisions, includes open space	\$18,548	person	\$18,548	Nil	Nil

Effect of negative movements in indices:

The template for a S94 Plan, and therefore each updated Tweed Shire Council S94 plan, contains the following statements in the clause entitled 'Adjustment of Contribution Rates':

Note: In the event that the Current IPD is less than the previous IPD, the Current IPD shall be taken as not less than the previous IPD.

Note: In the event that the Current LV Index is less than the previous LV Index, the Current LV Index shall be taken as not less than the previous LV Index.

OPTIONS:

1. Note the indexation of contribution rates as recommended.

CONCLUSION:

Given that Council is authorised to regularly index contribution rates under the provisions of Regulation 32 of the Environmental Planning and Assessment Regulation 2000, and by the clause entitled "Adjustment of Contribution Rates" as adopted in each S94 Plan, indexation has been applied to contribution rates as detailed in this report. Contribution plans have been updated to specify the contribution and Council's financial systems have been updated accordingly. The updated contribution rates become effective on 1 July 2012. This report is tabled for the information of Councillors.

COUNCIL IMPLICATIONS:

a. Policy:

Council's adopted S94 Plans.
NSW Environmental Planning and Assessment Act and Regulations.

b. Budget/Long Term Financial Plan:

Because the Environmental Planning and Assessment Regulations and Council's adopted S94 contributions plans allow for indexation of contribution rates, Council is able to annually adjust contribution rates in accordance with specific adopted indices, thereby enabling Council to require that developers fairly contribute towards the current actual cost of providing the facilities required as a result of that development, as identified in the contribution plans.

c. Legal:

Council is authorised to regularly index contribution rates under the provisions of Regulation 32 of the Environmental Planning and Assessment Regulation 2000, and by the clause entitled "Adjustment of Contribution Rates" as adopted in each S94 Plan.

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
- 1.2.3.3 Developer Contribution (s94) Plans

- 3 Strengthening the Economy
- 3.4 Provide land and infrastructure to underpin economic development and employment
- 3.4.2 Ensure sustainable provision of infrastructure (utilities, services and transport) is available to support economic development.
- 3.4.2.1 Provision of infrastructure
- 3.4.2.1.1 Review section 94 plans to ensure adequate provision of infrastructure

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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52 [EO-CM] Cycle Friendly Hinterland Route - Tweed Heads to Uki

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

SUMMARY OF REPORT:

The cyclist community can be divided into sub-groups. Commuter and recreational cyclists ride 'hybrid' bikes, generally travels short distances around urban areas and prefer to use footpaths and off-road facilities. Sports cyclists ride 'road' bikes, travel long distances in clusters of varying sizes and prefer to use the roadway.

Council's priority has always been to provide off-road cycleway facilities around the developed areas of the shire to cater mainly for commuter and recreational cyclists. There is no current funding under Council's Long Term Financial Plan to provide off-road cycleways adjacent to rural roads or to provide on-road cycleways that comply with AUSTRROADS standards.

Council officers conducted an audit of the existing on-road facilities from Tweed Heads to Uki with a goal of evaluating what would be required to upgrade the route to a 'cycle friendly road' and allow safe use by sports cyclists. To be cycle friendly line marked roads need to have shoulders of minimum width 1.2 metres and these shoulders need to be consistent with no discontinuities at obstacles.

The audit, and subsequent analysis, revealed that it would cost approximately \$7,972,000 to complete an upgrade to cycle friendly conditions on the subject route.

Allocating Council's efforts and funds towards developing this route would be at the expense of off-road facilities in urban areas of the shire.

RECOMMENDATION:

That Council:

- 1. Allocates its annual cycleway budget generally to the provision of off-road cycleway facilities in urban areas.**
- 2. Pursues opportunities for grant funding to undertake upgrade works on the proposed 'Hinterland Route' for the provision of continuous widened shoulders for on-road cyclists.**
- 3. Undertakes opportunistic shoulder widening, where feasible, along the proposed 'Hinterland Route' in conjunction with road reconstruction projects.**

REPORT:

1. Background

In March 2012 the Director of Engineering and Operations attended a workshop with a number of Tweed Shire Councillors to discuss cycleways in Tweed Shire. At this workshop there was general endorsement for the concept of a "Hinterland Cycleway" from Tweed Heads to Uki via Murwillumbah.

Once a facility is designated as a cycleway, Council is obliged to design and construct to AUSTRROADS guidelines. As detailed later in this report, an AUSTRROADS guideline compliant 'cycleway' is not an achievable option on most of the proposed route due to budget, spatial and environmental constraints. Instead, this report is based on providing 'cycle friendly roads' with continuous shoulders wide enough for safe use by cyclists. To be considered cycle friendly roads should have shoulders of minimum width 1.2 metres and these shoulders need to be consistent with no discontinuities at obstacles such as bridges, culverts and guardrails.

There is an additional benefit to road safety associated with upgrading road shoulders. Studies have revealed "*that the crash rate for all traffic decreases by approximately 20 per cent per 1 metre increase in the seal width*" (McLean, 1997).

This report assumes that the hinterland route, via Tweed Heads-Murwillumbah-Uki, is a priority to the cyclist community outside of urban areas. No direct community consultation has been undertaken in relation to this project.

2. Cyclist Needs

There are several sub-categories within the cycling population that have differing needs for cycleway infrastructure.

2.1 Sports cyclists

Sports cyclists ride "road" bikes and use normal roadways for exercise, enjoyment and competition. They travel at relatively high speeds and usually use the left road shoulder or the left edge of the road carriageway. Journey lengths are often quite long and made in groups of varying sizes.

The Tweed Shire Bicycle Plan (TSBP) describes the sports cyclist sub-group as follows: "*No matter what bicycle facilities are provided nearby, sports cyclists will always prefer to use the road. Thus, consideration should be given to improving road conditions for this bicycle user group.*" Continuity is a very important consideration for sports cyclists. It is undesirable, and unsafe, for an on-road cycleway to have frequent dangerous 'squeeze' points, such as culverts and guardrails, where conditions for cyclists are unsuitable.

2.2 Commuter and Recreational Cyclists

Commuter and recreational cyclists use "hybrid", "leisure" or "mountain" bikes that are substantially slower than "road" bikes. These cyclists generally prefer off-road cycleways, but commonly use road shoulders and travel on road when this is the best or only option. Journey lengths are generally shorter than made by sports cyclists, although some commuter trips can be substantial. School children also belong to this group. School trips are generally shorter and concentrated around morning and afternoon peak periods. There is a growing trend for family recreational cycling, particularly at weekends. These cyclists

often visit points of interest such as the beaches, estuaries and centres along the Coastal Cycleway.

2.3 Mountain Bikers

Mountain bikers use off road trails often in forest and natural areas. Many mountain bikers are into serious exercise and competition, but there are also many who do it for enjoyment and for the pleasure of being in natural areas.

2.4 AUSTRROAD Guidelines

AUSTRROAD Guide to Traffic Engineering Practice Part 14 - Bicycles recommends sealed shoulder widths based on number of cyclists and speed and volume of motor traffic. Recommended widths vary from an absolute minimum of 1.2 metres, generally for speed environments less than 60km/h, to 3 metres for speed environments of around 100km/h.

3. Gaps in the Cycleway Network

3.1 Lower Tweed and Tweed Coast Urban Areas

The processes outlined in Section 4 have provided a north/south Coastal Cycleway as the backbone for the cycle network serving the Lower Tweed and Tweed Coast urban areas. There are also important east/west links where development has extended west from the coast. The subdivision process has also provided cycle friendly links through many of the subdivisions built in recent decades. There are substantial gaps in the older brown fields areas of the Lower Tweed which were developed before cycle needs were accepted as a necessary part of the urban fabric. These gaps include links through and between Tweed Heads and Tweed Heads South to link these areas and the Banora Point residential areas to the cycleway network in Coolangatta.

The existing cycleway slung under the freeway across Terranora Creek is poorly joined to the cycleway network at the north and south. The cycleway under construction parallel to Kennedy Drive and the cycleway being built as part of the Kirkwood Road interchange will provide much improved connections to the Terranora Creek cycle crossing.

3.2 Rural Areas in General

Until recently rural roads have been constructed for the needs of motorised vehicles and bicycle needs have not been considered. There is no current funding under Council's Long Term Financial Plan to provide off road cycleways adjacent to rural roads or to provide on road cycleways that comply with AUSTRROADS standards. These are very expensive facilities as the minimum widths required by AUSTRROADS standards make the costs of land, cycleway construction, associated earthworks, stormwater drainage, signage and roadside furniture prohibitive. There are also environmental constraints associated with the wider width of clearing needed and encroachment onto areas of threatened vegetation that are common in and adjacent to rural road reserves.

Once a facility is designated as a cycleway, Council is obliged to design and construct to AUSTRROADS standards. Consequently the approach in rural areas has not been to provide cycleways, but rather to build more cycle friendly roads. To be cycle friendly line marked roads need to have shoulders of minimum width 1.2 metres and these shoulders need to be consistent with no discontinuities at obstacles such as culvert headwalls, sections of guardrail, kerbed road sections through cuttings, and along watercourse banks. These cycle friendly shoulders cannot be marked/signed as cycleways if they do not meet AUSTRROADS standards. On lower traffic volume sealed roads, line marking is not provided so it is not

possible to delineate cycle friendly shoulders. On these roads as motorised traffic volume is low; a mixed motorised vehicle/bicycle traffic stream is not unreasonable.

The extent to which Council can improve rural roads to incorporate cycle friendly shoulders is limited to reconstruction of those roads where widened shoulders can be retrofitted within existing road reserves and within physical and environmental constraints. Where possible this is already being done.

3.3 East West Link

The provision of an east west 'Hinterland' cycleway from Tweed Heads to Uki through Murwillumbah would provide a much needed missing link in the cycleway network. This link would enable cyclists to travel to and from Murwillumbah, Uki and the coast, link to the Coastal Cycleway and into the southern Gold Coast. This report will provide an audit of cycle facilities between Tweed Heads and Uki and examine the infrastructure improvements and their cost to provide a continuous cycleway connection between these two localities.

3.4 Mountain Bike Facilities

Council does not provide any mountain bike facilities. Serious mountain bikers use trails in state forests, national parks and private rural land. There have been requests for Council to become more involved in this activity by providing a linked network of trails and roads throughout the Shire and linking to other adjacent local government areas, but nothing is planned at this time. Some local government areas also provide mountain bike circuits for competition. The provision of mountain bike facilities is not investigated further in this report.

4. What Has Council Achieved To Date

4.1 Tweed Shire Bike Plan (TSBP)

The "Tweed Shire Bike Plan" (TSBP) was completed in 1995. The Plan studied the opportunities and constraints for developing bicycle facilities and recommended actions to establish a safe, functional, and integrated bicycle network throughout Tweed Shire. This Plan has been used as the guide for cycleway provision since that time.

The TSBP proposed treatments, timeframes and assigned priorities to areas that are earmarked to incorporate cycle facilities. The subject areas of this investigation were designated as follows:

Area	Priority	Implementation Timeframe (1995+)	Provision
Wharf Street, Tweed Heads	High	3 years	Shared Bicycle/Parking
Minjungbal Drive, Tweed Heads South	Medium	8 years	Shared Bicycle/Parking
Chinderah to Murwillumbah	High	3 years	3 metre shoulder
Murwillumbah to Mt Warning Road	Medium	8 years	1.5 metre shoulder
Mt Warning Road to Uki	Low	12 years	1.5 metre shoulder

Figure 1: TSBP designations of the subject route

4.2 Contributions Plan No. 22 Cycleways (CP22)

This Plan was established in 1999 and the Works Program was based on the 1995 "Tweed Shire Bicycle Plan". The cycleway network funded by the plan is the wider connecting network and does not include cycleways that are only for local purposes only. As Section 94 contributions must have a "nexus" with the development that pays the contribution, CP22 only applies to the urban areas of Tweed Shire where significant residential development is occurring. CP22 excludes the rural areas of the shire as the level of residential development is insufficient to justify a "nexus" with the long and very expensive cycleways required to service a very small number of additional residents caused by development. Current contributions under CP22 are \$451 per lot/dwelling.

4.3 Secured Funding

Cycleways are funded and constructed from two processes. Firstly, Council has an annual budget item for cycleways and traditionally this has been used to match funding from Roads and Maritime Services (RMS). From 1999, there has also been funding from CP22 (see above) which has been used to supplement the funds from annual Council budgets and RMS grants. The second process for providing cycleways is through subdivision development. When land is subdivided for residential purposes, the developer as a condition of consent provides all necessary infrastructures in the subdivision including roads, pathways and cycleways.

Funding of (non-developer) cycleways is usually shared across sources. Figure two (below) demonstrates the sources of funding for Council/RMS/CP22/grant funded cycleway projects over past five years:

Year	Project	Council	RMS	Section 94	Grants	Total
2011/12	Kennedy Drive	\$94,966	\$182,000	\$91,250		\$368,216
2010/11	Keith Compton Drive	\$100,000	\$100,000			\$200,000
2009/10	Burringbar to Mooball				\$263,000	\$263,000
	Kyogle Road, Bray Park	\$92,200	\$25,000	\$90,000	\$90,000	\$297,200
2008/09	Kyogle Road, Bray Park	\$92,200	\$25,000	\$90,000	\$90,000	\$297,200
2007/08	Tree Street, Bray Park	\$92,200	\$45,000			\$137,200
					5 year total	\$1,562,816

Figure 2: The past five years of Council/RMS/CP22/grant cycleway funding sources and its allocation to projects.

4.4 Development Design Specifications

Two development design specifications have been developed that apply to cycleways and road shoulders. These are:

- D1 - Road Design and;
- D9 - Cycleway and Pathway Design

Development Design Specifications D1 and D7 specify minimum requirements for cycleway infrastructure. This assures that all new cycleway infrastructures in Tweed Shire are built to an acceptable level of service and quality.

4.5 Achievements from Annual Council Budgets, Government Grants and CP22

The combination of funds from annual Council budgets, government grants and CP22 has financed some significant sections of cycleways including:

- Coastal Cycleway, Pottsville to Hastings Point
- Coastal Cycleway, Hastings Point to Cabarita/Bogangar
- Coastal Cycleway, Bogangar to Casuarina
- Coastal Cycleway, Cudgen Creek Bridge, Kingscliff
- Coastal Cycleway, Kingscliff Beach Foreshore to Wommin Bay Road, Chinderah
- Coastal Cycleway, Chinderah Bay Drive
- Coastal Cycleway, Keith Compton Drive river frontage
- Coastal Cycleway, Jack Evans Boat Harbour
- Minjungbal Drive, Tweed Heads South
- Pottsville to Seabreeze Cycleway
- Bray Park Cutting Cycleway
- Burringbar Mooball Cycleway
- Kennedy Drive Cycleway (under construction)
- Tree Street Cycleway, Bray Park
- Nullum, Condong, Brisbane and King Streets cycleway, Murwillumbah
- Kingscliff to Cudgen village Cycleway
- SALT to Cudgen Creek bridge cycleway
- Cudgen Creek bridge to Marine Parade cycleway, Kingscliff

4.6 Achievements from Subdivision Development

The following network cycleways have been provided through the subdivision process:

- Coastal Cycleway through Casuarina, SALT and Seaside City
- Pottsville to Blackrocks Estate Cycleway
- Riveroak Drive Cycleway, Bray Park
- Cycle friendly pathways/cycleways and widened road shoulders in all contemporary subdivisions

5. Methodology

Council officers undertook an audit of existing road facilities in the subject area. Using this information it was possible to determine the works required to complete an upgrade to suitable facilities, identify constraints and opportunities, estimate costs and formulate all the results included below.

The route chosen is mostly the obvious one along Tweed Valley Way and Kyogle Road, with one major deviation adopted via Commercial Road, Murwillumbah. A small detour, from the Pacific Highway, via Chinderah was also adopted because, in addition to being a safer environment, this is where the coastal cycleway intersects the subject route (Wommin Bay Road). Other potentially desirable route options were investigated and these are outlined below.

The survey was split up into four separate sections. This was done because the four zones each exhibit unique conditions and challenges for future upgrades:

Zone 1: Jack Evans Boat Harbour to Chinderah (urban)

Zone 2: Chinderah to Murwillumbah (rural)

Zone 3: Murwillumbah CBD to Bray Park (urban/rural)

Zone 4: Bray Park to Uki. (rural)

5.1 Zone 1: Jack Evans Boat Harbour to Chinderah

Zone 1, Jack Evans Boat Harbour to Chinderah via Wharf Street, Minjungbal Drive, Laura Street and the Old Pacific Highway is generally an extremely busy area. Off-road facilities exist in these areas but it is also necessary to provide on-road facilities, in most places, for sports cyclists. Wharf Street is a regional arterial road with an average daily traffic (ADT) loading of approximately 20,000 vehicles. Minjungbal Drive is also a regional arterial road with an ADT of about 30,000 vehicles. Jack Evans Boat Harbour was selected as a start/end point because the locality contains many attractors/generators and links to Gold Coast City Council cycleways.

5.2 Zone 2: Chinderah to Murwillumbah

Zone 2, Chinderah to Murwillumbah via Tweed Valley Way was once the Pacific Highway and therefore has relatively straight alignment, wide lanes and shoulders, good sight distances and a high speed environment. Because it traverses close to the Tweed River it has a significant number of culverts and bridges. Tweed Valley Way has an approximate ADT of 12,000 vehicles in this area.

5.3 Zone 3: Murwillumbah to Bray Park

Zone 3, Murwillumbah to Bray Park, via Commercial Road, involves linking the Southern end of Commercial Road to Elouera Terrace. The link would be for cyclists and pedestrians only, not motor vehicles. Elouera Terrace and the Northern part of Commercial Road are residential streets with little traffic and low speed environment. The southern part of Commercial Road is a 'no through' rural road with very low traffic loading.

5.4 Zone 4: Bray Park to Uki

Zone 4, Bray Park to Uki, via Kyogle Road, is a rural regional road in difficult terrain and therefore is quite winding with narrow lanes and shoulders, multiple culverts and cuttings, poor sight distances and varying speed environments. Kyogle Road has an ADT of approximately 3,000 vehicles in this area.

6. Potential Alternative Routes

6.1 Off-road through Tweed Heads and Tweed Heads South

Off-road facilities exist almost continuously from Jack Evans boat harbour to Chinderah. These facilities are used frequently by recreational cyclists, commuters and tourists. However, these facilities are not applicable to the sports cyclist user group as they almost always use the road. It is therefore necessary to also provide on-road facilities in these areas.

6.2 Pacific Highway from Tweed Heads South to Barneys Point

When navigating between Chinderah and Tweed Heads South cyclists have two options. They can use the shared path via the old highway and Laura Street or use the road shoulders of the Pacific Highway. The Pacific Highway is a very high speed environment with multiple interchanges and varying shoulder conditions. When crossing the bridge in the southbound direction there is almost no shoulder available. This is an unsafe environment for cyclists. For these reasons the shared path option is preferred.

6.3 Chinderah Bay Drive South

The route proposed already runs along Chinderah Bay Drive but rejoins the Pacific Highway via Chinderah Road. Currently, the Southern end of Chinderah Bay Drive is blocked off from the Pacific Highway. This means any cyclists heading north must continue along the Highway to Chinderah Road. This is a dangerous environment for cyclists due to the high speeds and merging traffic lanes. For this reason cyclist usage of the highway should be discouraged and minimised. If a small cyclist/pedestrian access was created at the southern end of Chinderah Bay Drive to the Pacific Highway cyclists would be diverted away from this high risk area. This route would be ideal for northbound cyclists. However, when the route of southbound cyclists is considered there are some issues arising with this change. Potential crossing movements on the highway are unsafe and undesirable. Creating a contra-flow lane link to Tweed Valley Way is possible, but most likely cost prohibitive, and still involves crossing movements. The Pacific Highway is controlled by Roads and Maritime Services (RMS) and any changes would ultimately be at the discretion of RMS.

6.4 Wollumbin and Riverview Streets, Murwillumbah

The alternative to the adopted Commercial Road route from Murwillumbah to Bray Park is to direct cyclists via Wollumbin and Riverview Streets. Wollumbin Street is very busy with multiple intersections and kerbside parking lanes. Riverview Street has an ADT of about 5,000 vehicles, narrow shoulders and little room to widen them.

6.5 Cane Road/Tumbulgum Road/Racecourse Road

Cyclists could be diverted to the North of Murwillumbah via Cane Road and Tumbulgum/Racecourse Road. This would allow cyclists to avoid the busier, residential and industrial areas around South Murwillumbah. Cane/Tumbulgum/Racecourse Roads are generally wide, relatively unconstrained and with lower traffic loading than Tweed Valley Way. However, Tumbulgum Road has relatively narrow lane widths and a higher speed environment compared to Tweed Valley Way and this route would direct cyclists through the narrow section on the corner near Sunnyside Lane and the busy commercial area of Wharf Street. For these reasons Tweed Valley Way is a more desirable option.

6.6 Mistral and Bakers Roads

Another option for cyclists to detour around the Murwillumbah CBD would be to go via Mistral and Bakers Road. This is a relatively quiet, scenic area compared to Murwillumbah. However, Bakers Road becomes narrow and winding with steep gradients and therefore would be an unsafe environment for on-road cyclists without extensive upgrades. For this reason this route is undesirable.

7. Findings

7.1 Road Shoulder Condition Audit

A mapped summary of the results of the road audit can be found in Attachment 1.

7.2 Road Shoulder Condition Breakdown

Figures three (below) is a breakdown of the existing road conditions by linear metre. Existing conditions are simplified into four categories:

- Shoulder exists. No upgrade required
- Shoulder exists. Line marking alteration required
- Insufficient shoulder. Pavement widening required
- Constraint. Reconfiguration of road/facilities required

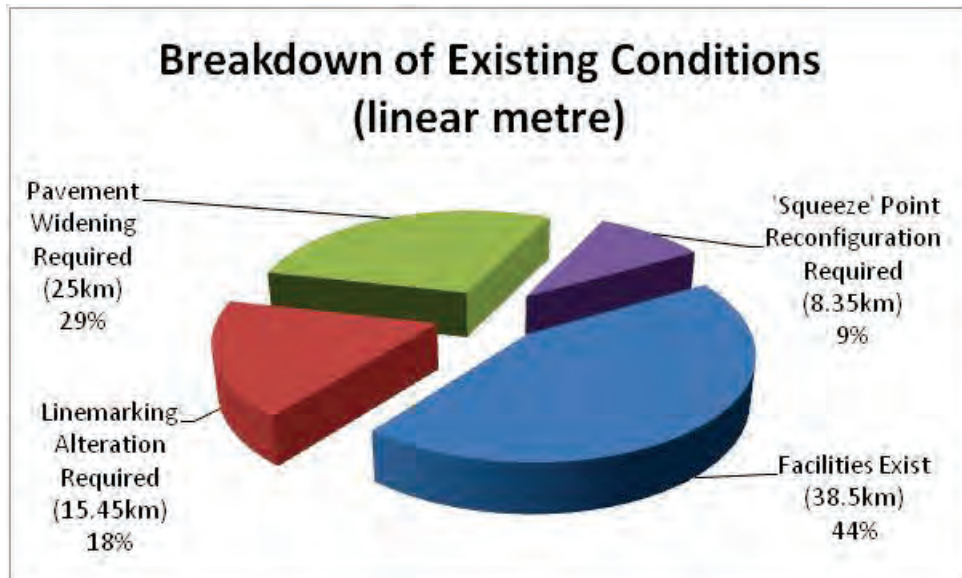


Figure 3: Breakdown, by linear metre, of existing conditions from Tweed Heads to Uki.

8. Cost

An estimate of the cost of implementing the proposed upgrades to achieve fit for purpose facilities for cyclists with full continuity along the subject route was undertaken. The areas of the Chinderah Bay Drive-Wommin Bay Road intersection and the Eastern side of Tweed Valley Way from Cudgen Road to Riverside Drive have been omitted due to upcoming upgrade projects that will include widened shoulders. The upgrade is estimated to cost:

Zone	Location	Cost
Zone 1:	Jack Evans Boat Harbour to Chinderah	\$776,000
Zone 2:	Chinderah to Murwillumbah	\$4,334,000
Zone 3:	Murwillumbah CBD to Bray Park	\$331,000
Zone 4:	Bray Park to Uki	\$2,531,000
Total		\$7,972,000

Figure 4: Breakdown of the cost of the proposed upgrades by zone.

The \$7,972,000 is spent on widening pavements, altering line marking, reconfiguring 'squeeze' points and associated construction costs. Costs are broken up as follows:

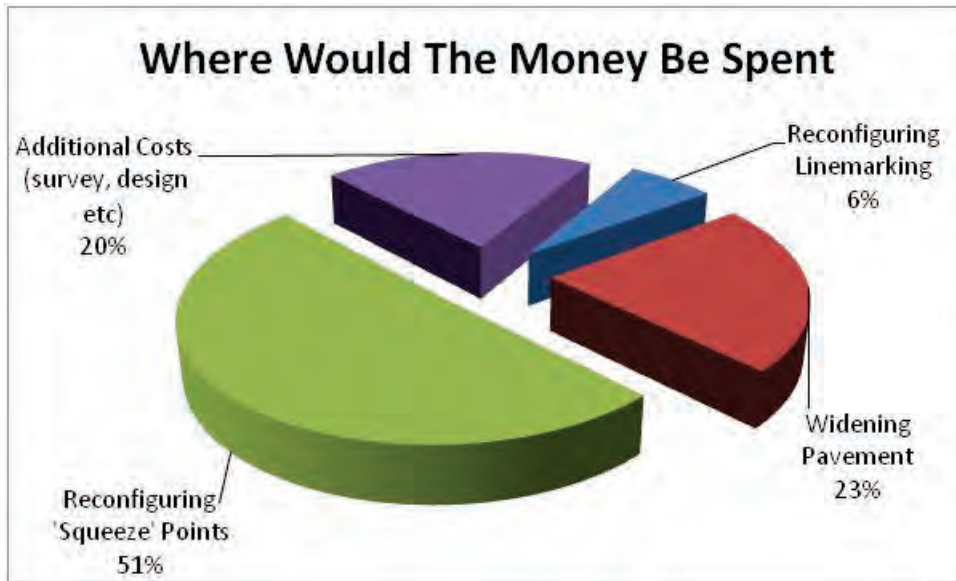


Figure 5: Breakdown of the cost of the proposed upgrades.

A detailed spreadsheet of cost estimates can be viewed in Attachment 2.

8.1 Maintenance

During the audit it was very common to observe areas where the road shoulder had been neglected and was overgrown with vegetation, or strewn with obstacles, rendering it unusable to cyclists. If Council was to go ahead with an upgrade of the subject route ongoing maintenance would be an important consideration. Maintenance of asphalt sealed shoulders would involve regular sweeping, repairing potholes, resurfacing, clearing debris, weed spraying and tree pruning. Maintenance of concrete shared paths would involve regular sweeping, replacement of failed sections and grinding. It is estimated that maintenance on the completed hinterland route, once upgraded to cycle friendly conditions, would cost an additional **\$73,500** per annum on current costs.

9. Conclusion

Providing an Australian standards compliant 'cycleway' along the subject route is not an option due to budget, and other, constraints. Providing 'cycle friendly roads' is achievable although it would cost approximately \$7,972,000 to complete the upgrade. If Council was to focus on the hinterland route and allocate funding towards its development there would be no funding to provide the, more often utilised, off-road facilities in and around the urban areas of the shire.

Upgrading the hinterland route to cycle friendly conditions should be pursued in an 'opportunistic' manner through grant schemes and by including wide shoulders in road reconstruction projects. This way the route would be slowly upgraded over time without adversely affecting the delivery of important off-road cycleway infrastructure in urban areas of the shire.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

In the past 5 years \$1,562,816 from various funding sources has been spent on cycleway infrastructure across Tweed Shire. The completed 'Hinterland Route' is anticipated to cost around **\$7,972,000**. At the current rates, it would take about **25.5** years worth of funding to provide the budget required for the project. It is therefore not recommended that the project take priority for existing cycleway funding and alternate funding sources be pursued as they become available.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.4 An integrated transport system that services local and regional needs
- 2.4.3 Ensure local streets, footpaths and cycleways are provided, interconnected and maintained
- 2.4.3.1 Prepare and maintain forward programs for roads, footpaths and cycleways. Footpaths and cycleways

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Cycle Friendly Hinterland Route - Mapped Audit Summary (ECM 51902753).
 - 2. Cycle Friendly Hinterland Route - Cost Estimate (DW 51808905).
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53 [EO-CM] Tweed Road Contribution Plan 5 Year Rolling Works Program

SUBMITTED BY: Planning and Infrastructure



Civic Leadership

SUMMARY OF REPORT:

This report seeks to update the 5 Year Rolling Works Program for the Tweed Road Contribution Plan. A combination of reduced income and the increased cost of roads projects, means that the projects envisaged in the current version of the 5 Year Rolling Works Program (2010) cannot be delivered. A revised program, centred on delivery of Kirkwood Road east of the highway, and completion of Kennedy Drive widening, is proposed, with other road works associated with urban development in Cobaki, Terranora Area E, West Kingscliff and West Murwillumbah likely to be undertaken as works in kind by the developer.

RECOMMENDATION:

That Council adopts the proposed Tweed Road Contribution Plan 5 Year Rolling Works Program, as listed below, providing sufficient funding exists:

Year	TRCP 5 Year Rolling Works Program TRCP Project
2012/13	(36a-e) Kirkwood Road Construction - Highway to Falcon Way excluding bridge over highway
	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(6-11) Cobaki Parkway from Boyd Street overpass to Precinct 6 (expected works in kind)
2013/14	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(10-13) Cobaki Parkway town centre intersection and southern services (expected works in kind)
2014/15	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(51) Fraser Drive intersection Broadwater Parkway (acquisition)
	(81a) Turnock Street Extension - Elrond Drive to Tweed Coast Road (expected works in kind)
2015/16	(51) Fraser Drive intersection Broadwater Parkway (expected works in kind)
2016/17	112(k) Old Lismore Road - Sovereign Way and Castlefield Drive (expected works in kind)

REPORT:

At the meeting of 21 September 2010 Council adopted the following 5 Year Rolling Works Program, based on the Works Program from Version 5 of Section 94 Plan No.4 Tweed Road Contribution Plan (TRCP) and cash flow analysis:

Year	TRCP 5 Year Rolling Works Program TRCP Project	
2010/11	(6&8)	Cobaki Parkway from Boyd Street overpass to town centre (by developer)
	(36)	Kirkwood Road Construction - Highway to Falcon Way excluding bridge over highway
2011/12	(36)	Kirkwood Road Construction - Highway to Falcon Way excluding bridge over highway
	(8)	Cobaki Parkway town centre to Sandy Lane
	(20a)	Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
2012/13	(29a)	Kennedy Drive - Rose Street to Cobaki Bridge
	(59c)	Leisure Drive upgrade - Winders Place to Eucalyptus Drive
2013/14	(112k)	Old Lismore Road upgrade between new subdivisions
	(112b)	West End Street extension
	(11)	Cobaki Parkway Sandy Lane Southern intersection to Piggabeen Creek
2014/15	(112k)	Old Lismore Road at North Arm Road
	(13)	Cobaki Parkway Bridge over Piggabeen Creek

In the years since, Council has considered reports regarding the adoption of Version 6 of the TRCP and concerning the Kirkwood Road construction project.

Cash Flow Analysis

TRCP Income

In 2010, the following 5 year projection of TRCP income was provided based on known major urban release areas, their expected commencement dates and rate of development. It was noted in the 2010 report that income projections could vary significantly due to the progress of these developments and economic conditions, and require periodic amendment. Note that projected income includes items to be completed as "works in kind" by developers in return for TRCP credits.

TRCP 5 Year Cash Flow Estimate			
Year	Projected Income	Actual Income	Shortfall
2007/2008		\$1,778,000	
2008/2009		\$1,374,000	
2009/2010		\$1,058,000	
2010/2011	\$3,941,000	\$596,000	-\$3,345,000
2011/2012	\$5,683,500	\$1,305,729	-\$4,377,771
2012/2013	\$4,534,000		
2013/2014	\$7,420,000		
2014/2015	\$7,542,000		

Actual TRCP cash flow in the right hand columns confirms the impact that the development downturn has had regarding Section 94 developer contributions. Major projects in Cobaki, Kings Forest, West Kingscliff and Area E are yet to progress beyond initial approval stages. There is little to suggest that TRCP income will recover to the projected levels in the short term.

TRCP Expenditure

In November 2011 Council considered a report regarding the construction tender for Kirkwood Road. This report confirmed a total estimated project cost of \$16.93 million, \$10.67 million of which is to be funded by Council from the TRCP (the remainder from NSW Roads and Maritime Services (RMS)). At that time TRCP held a balance of \$10 million, which was allocated to the Kirkwood Road project. As such, with committed costs, the TRCP balance is effectively \$0.

The 2010 report estimated the Kirkwood Road project would cost Council \$6.785 million, and this increased expenditure of \$3.885 million adds to the shortfall in income to significantly affect the ability to deliver the existing 5 Year Rolling Works Program, or add significant projects to an updated version.

Council has also commenced the widening of Kennedy Drive for the block between Limosa Avenue and Gray Street. This is the current extent that can be funded under the TRCP (approximately 1/3 of project), with future sections (remaining 2/3) needing to be deferred until such time as adequate funds can be collected under the TRCP or an alternate source of funding is acquired.

5 Year Works Program Current Projects

1. Cobaki Parkway - Boyd Street to Town Centre
This project will be undertaken by the developer of Cobaki Estate, and has progressed to construction certificate stage. These works in kind will provide the developer with a significant credit for TRCP contributions for later stages of the development. This project shall remain in the 5 Year Rolling Works Program as works in kind.
2. Kirkwood Road - Highway to Falcon Way
As discussed, this project has commenced and represents a commitment of the majority of TRCP funds. The project commenced in 2011/2012 and shall be completed in 2012/2013, for inclusion in the 5 Year Rolling Works Program.
3. Cobaki Parkway - Town Centre to Sandy Lane
The developer of Cobaki Estate has approval for Precinct 6, which will necessitate at least part of this section of Cobaki Parkway being constructed. As for the Boyd Street section, the road construction will be works in kind under the TRCP, and provide credit for the Cobaki Estate. This project shall remain in the 5 Year Rolling Works Program as works in kind.
4. Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
The first stage of this project from Gray Street to Limosa Avenue is nearing completion. The funding of later stages under TRCP depends on TRCP income as the

balance of funding has been fully committed. This item will remain in the 5 Year Rolling Works Program, to be completed over a number of years as funding permits.

5. Leisure Drive Upgrade - Winders Place to Eucalyptus Drive

In accordance with previous Council considerations this project has been deferred, as TRCP funding does not permit its construction within the short term. It should therefore be removed from the 5 Year Rolling Works Program.

6. Old Lismore Road Upgrade

This project is subject to further development of the West Murwillumbah urban release area. There is some likelihood that further development will occur in this area that will necessitate the upgrading of Old Lismore Road at the Tyalgum Road end within the term of the 5 Year Rolling Works Program, and it should be retained as works in kind.

7. West End Street Extension

This project is subject to development of residential land at the end of West End Street. While a subdivision application was current at the time of the previous program, it has since been withdrawn, and there is no development imminent in this area in the short term. It should therefore be removed from the 5 Year Rolling Works Program.

8. Cobaki Parkway - Sandy Lane to Piggabeen Creek

Initial earthworks in this area are currently the subject of a construction certificate application with Council, in order to provide a services corridor from Piggabeen Road to Cobaki Estate. The developer indicates that the construction of this section of road is outside the 5 year program horizon, and therefore only a limited portion of these works should be included in the 5 Year Rolling Works Program as works in kind.

9. Old Lismore Road at North Arm Road

This project is subject to development of the West Murwillumbah release area. There are no pending subdivision consents at this time for this end of Old Lismore Road, and as such, this project is unlikely to proceed in the short term. It should therefore be removed from the 5 Year Rolling Works Program.

10. Cobaki Parkway Bridge over Piggabeen Creek

Initial works in this area are currently the subject of a construction certificate application with Council in order to provide a services bridge from Piggabeen Road to Cobaki Estate, however this does not extend to the provision of a trafficable bridge. Projected TRCP funding is insufficient for Council to construct this link. The developer indicates that the construction of the bridge for traffic is outside the 5 year program horizon, and it should therefore be removed from the 5 Year Rolling Works Program (except for an allowance for the provision of services). Other implications relating to this works program item are subject to a separate report.

Revised Cash Flow

The previous cash flow analysis has been updated to reflect cost estimates in Version 6 of the TRCP, and downward revision of projected TRCP income based on 5 year average income. Later years of the program allow for the accumulation of surplus funds in order to undertake major works in following years.

Proposed TRCP 5 Year Rolling Works Program – Works Schedule and Cash Flow					
Year	TRCP Project	Projected Annual Income	Estimated Project Cost	Projected Annual Balance	Comments
2011/12	(36a-e) Kirkwood Road - Highway to Falcon Way: spending to June 2012		\$1,342,961		Total project cost = \$ 16,931,740, TSC contribution from TRCP = \$10,671,391 (remainder from RMS)
	(30c) Kennedy Drive - Rose Street to Cobaki Creek Bridge (widening to 4 lanes): spending to June 2012		\$235,193		Total project cost = \$ 8,409,252, TSC contribution from TRCP = \$4,204,626 (remainder from roads budget)
	BALANCE at June 2012 (includes 2011/12 income, less local area contributions)			\$10,236,548	
2012/13	(36a-e) Kirkwood Road - Highway to Falcon Way		\$9,328,430		
	(30c) Kennedy Drive – Rose Street to Cobaki Creek Bridge (widening to 4 lanes)		\$1,323,144		
	MISC investigation / design / land acquisition		\$100,000		
	Income	\$1,222,378			5 year average income
	BALANCE			\$707,352	
2013/14	(30c) Kennedy Drive – Rose Street to Cobaki Creek Bridge (widening to 4 lanes) – continued from 2012/13		\$1,323,144		
	MISC investigation / design / land acquisition		\$100,000		
	Income	\$3,548,698			5 year average income + TRCP income from Stages 1-5 "Altitude Aspire" Area E (approximately 180 lots)
	BALANCE			\$2,832,906	
2014/15	(30c) Kennedy Drive – Rose Street to Cobaki Creek Bridge (widening to 4 lanes) – continued from 2013/14		\$1,323,144		
	(51) Fraser Drive intersection Broadwater Parkway		\$1,193,700		Property acquisition, planning approval
	MISC investigation / design / land acquisition		\$100,000		
	Income	\$1,222,378			5 year average income
	BALANCE			\$1,438,440	
2015/16	MISC investigation / design / land acquisition		\$100,000		
	Income	\$1,222,378			
	BALANCE			\$2,760,818	
2016/17	MISC investigation / design / land acquisition		\$100,000		
	Income	\$1,222,378			5 year average income
	BALANCE			\$3,883,196	

The only new project proposed for inclusion in the 5 Year Rolling Works Program relates to the intersection of Fraser Drive and Broadwater Parkway. The TRCP includes an item for construction of this intersection, including the acquisition of private land to accommodate the intersection and first section of Broadwater Parkway. Broadwater Parkway is an essential piece of road infrastructure for the Area E urban release area, and the first subdivision, known as "Altitude Aspire," is currently before the Department of Planning. Council does not intend to undertake acquisition of land to secure the intersection until such time as funds are available in the TRCP. As shown in the cash flow projection, the initial stages of "Altitude Aspire" should make such funds available. This matter will be formalised via a voluntary planning agreement with the developer, which will be the subject of a future report to Council.

Works in Kind

The TRCP includes provisions whereby developers may undertake arterial road works that are within the schedule of works, and receive credits for their development against the TRCP. While works in kind do not affect the balance held by Council for the TRCP, they are transactions that need to be accounted for. The following works in kind are envisaged for the 5 Year Rolling Works Program:

Proposed TRCP 5 Year Rolling Works Program - Works In Kind			
Year	TRCP Project	Value in Works Schedule	Comments
2012/13	(6) Two lanes Cobaki Parkway - QLD Border to first roundabout	\$1,346,304	
	(7) Two lanes Cobaki Parkway	\$440,755	
	(7b) Earthworks allowance	\$499,200	50% provision
	(9) Two lanes Cobaki Parkway first roundabout to Town Centre	\$2,297,896	
	(10b) Earthworks allowance	\$768,600	50% provision
	(11) Two lanes Cobaki Parkway Town Centre to Piggabeen Road	\$2,286,951	25% provision to service Precinct 6
2013/14	(10a) Town centre intersection ultimate	\$796,965	50% provision
	(11) Two lanes Cobaki Parkway Town Centre to Piggabeen Road	\$2,286,951	25% provision to connect services
	(13) Two lane bridge over Cobaki Creek	\$1,739,495	25% for service provision
2014/15	(81a) Turnock Street extension - Elrond Drive to Tweed Coast Road	\$20,723,676	
2015/16	(51) Fraser Drive intersection Broadwater Parkway	\$4,197,846	
2016/17	112(k) Old Lismore Road - Sovereign Way and Castlefield Drive extension	\$2,310,375	
TOTAL WORKS IN KIND		\$39,695,014	

Proposed 5 Year Rolling Works Program

Taking into account the above discussion and cash flow analysis, the proposed TRCP 5 Year Rolling Works Program is as follows:

Year	TRCP 5 Year Rolling Works Program TRCP Project
2012/13	(36a-e) Kirkwood Road Construction - Highway to Falcon Way excluding bridge over highway
	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(6-11) Cobaki Parkway from Boyd Street overpass to Precinct 6 (expected works in kind)
2013/14	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(10-13) Cobaki Parkway town centre intersection and southern services (expected works in kind)
2014/15	(30c) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
	(51) Fraser Drive intersection Broadwater Parkway (acquisition)
	(81a) Turnock Street Extension - Elrond Drive to Tweed Coast Road (expected works in kind)
2015/16	(51) Fraser Drive intersection Broadwater Parkway (expected works in kind)
2016/17	112(k) Old Lismore Road - Sovereign Way and Castlefield Drive extension (expected works in kind)

Future Projects

The TRCP Works Program contains over \$580 million of required distributor road projects to be carried out over the life of the plan. If the current cash flow problems being experienced by the TRCP continue, there are significant difficulties foreshadowed in fulfilling Council's obligations to provide these major road projects.

Some of these works items are linked to adopted road strategies, such as the Lower Tweed and Pacific Highway Traffic Masterplan. This document has been adopted by both Council and the NSW Roads and Maritime Services (RMS) and these projects have been incorporated into the TRCP Works Program. Upcoming commitments under the Masterplan include the construction of a new service road across Terranora Creek, to link the Kennedy Drive interchange with Kirkwood Road, in order to remove the temporary Kirkwood Road highway off ramp (currently under construction) which is expected to have reached capacity. According to current information the service road is required in 2019, at an estimated cost to Council of almost \$20 million, assuming 50% funding is obtained from RMS. This project should be given priority for TRCP funding beyond the 5 Year Rolling Works Program given Council's adoption of the Masterplan.

Other works are considered to be a pre-requisite to development proceeding beyond certain thresholds, in order to maintain acceptable levels of service on the road network, and are therefore critical for continued growth. For example, it has been estimated that Kings Forest should not proceed beyond approximately 1200 allotments until Tweed Coast Road has

been four-laned from Chinderah to Depot Road. This project is estimated to cost \$39 million. It appears unlikely that this could be funded under the TRCP and may have to rely on works in kind contributions from developers.

These foreshadowed road projects are beyond the scope of the 5 Year Rolling Works Program, but future projects are an important consideration in how to manage projected TRCP balances.

OPTIONS:

1. Council may adopt the works program as above or consider changes within the scope of the adopted works schedule.
2. Given past commitments to undertake the Kirkwood Road project and its effect on the ability to undertake any other projects under the TRCP, there is little scope for further projects unless alternate funding sources are found, or various distributor roads requiring TRCP upgrades are reclassified to State Roads for State funding, as proposed in Council's recent submissions to RMS. The opportunity exists to build a surplus in the TRCP once current obligations are completed (see years 4 and 5 of the proposed program), in order to undertake the necessary larger road projects later in the TRCP Works Program such as the Terranora Creek service road.

CONCLUSION:

A revised 5 Year Rolling Works Program for the TRCP has been proposed, which is focused on the delivery of Kirkwood Road, as previously resolved by Council. Due to impacts of this project on the TRCP balance and the current reduced income from the TRCP, few other projects are envisaged except for continuation of the Kennedy Drive upgrade and acquisition of land for Broadwater Parkway, as funding permits. Infrastructure provision for new urban release areas is expected to be largely met by works in kind by developers, which has less impact on the TRCP balance. The 5 Year Rolling Works Program will continue to be reviewed and updated via future reports to Council.

COUNCIL IMPLICATIONS:

a. Policy:

Section 94 Plan No.4 Tweed Road Contribution Plan

b. Budget/Long Term Financial Plan:

Deferral of TRCP projects previously included in the 5 Year Rolling Works Program will potentially expand the delivery horizon for the TRCP beyond 30 years. The 5 Year Rolling Works Program as proposed aims to build a surplus in the later years in order to allow larger projects to be undertaken in following years.

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
- 1.2.3.3 Developer Contribution (s94) Plans

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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54 [EO-CM] Tweed Valley Floodplain Risk Management Study and Plan

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

SUMMARY OF REPORT:

Council has undertaken to engage consultants to prepare a Tweed Valley Floodplain Risk Management Study and Plan. These draft documents have been received following an extensive study phase utilising the best available data and detailed consultation with key stakeholders and agencies. The study and plan have significant implications for the management of existing and future flood risks, with recommendations that impact on emergency response, flood mitigation, town planning and community education. The draft documents have been presented to the Floodplain Management Committee, who recommended that the drafts be placed on public exhibition. Extensive community consultation is planned during the exhibition period.

RECOMMENDATION:

That the draft Tweed Valley Floodplain Risk Management Study and Plan be placed on public exhibition.

REPORT:

At its meeting of 1 June 2012, the Floodplain Management Committee was presented with drafts of the Tweed Valley Floodplain Risk Management Study and Plan (refer to separate minutes).

These documents are the culmination of many years of consultancy work by BMT WBM on behalf of Council, which has included:

- An update of the 2005 Tweed Valley Flood Study, to incorporate airborne laser scanning data into the model and update the hydrological model;
- Initial consultation of 32 stakeholder groups from the community, industry and other interest groups, plus feedback from an online survey from 38 individual residents;
- A floor level survey of around 7,000 flood prone residential, commercial and industrial properties in the Tweed Valley;
- Detailed consultation with the NSW State Emergency Service (SES), and Ambulance and Fire Brigades, regarding evacuation and emergency response procedures and assumptions used in the study;
- Production of seven Discussion Papers, totalling approximately 600 pages, including a Planning Considerations report by town planning and risk management sub-consultants Bewsher Consulting and Grech Planners;
- Floodplain Management Committee presentations and Technical Sub-committee meetings.

Significant findings and recommendations of the draft study and plan include:

- An estimated 11,700 people and 4,300 properties are affected by the 100 year ARI flood in the Tweed Valley. This increases to 41,500 people and 16,800 properties in a probable maximum flood (PMF);
- Estimated Average Annual Damages of \$22.3 million is one of the highest damage exposures in NSW;
- Climate change impacts on flooding increases the number of people and properties exposed to the 100 year flood risk by 60%, and increases damages by up to 140%.
- Raising and extension of the Tweed Heads South levee provides a good cost-benefit, by reducing damages and increasing evacuation times, provided local stormwater can be appropriately managed;
- Cumulative impact scenarios confirm that filling of Chinderah Village and the South Murwillumbah storage basin is not viable without unacceptable impacts. Other fill scenarios, including West Kingscliff provide impacts within acceptable limits;
- The purchase of industrial land to preserve the hydraulic connection between the South Murwillumbah and Condong basins is necessary;
- Scope for filling of the remaining rural floodplain outside of high flow areas is limited and requires specific development controls;
- Tweed City Centre planning strategies are generally compatible in Tweed Heads North, however proposals for intensification of residential development (mixed use) in Tweed Heads South are not supported in their current form due to evacuation and isolation risks;
- Increased residential density in South Murwillumbah, as proposed in the Murwillumbah DCP is not supported on safety grounds;
- Need for community education on flood risks and emergency response measures.

The Committee recommended unanimously to publicly exhibit the draft study and plan. Due to the complexity of the issues dealt with in the documents, and the volume of background information that has gone into their preparation, an extended exhibition period is proposed, and the consultants are required to conduct community workshops. All submissions received during the exhibition period will be collated and considered by the consultants, and the final documents will be put back to the Floodplain Management Committee and Council prior to adoption.

The Floodplain Risk Management Study and Plan has been prepared in accordance with the process and principles contained in the NSW Floodplain Development Manual. By adhering to the Manual, Council's decisions in relation to floodplain management maintain indemnity under Section 733 of the Local Government Act.

OPTIONS:

The recommended option is that Council endorse the recommendation of the Floodplain Management Committee and resolves to place the draft documents on public exhibition. Other options would delay the release of these important documents to the public for their input, in what has already been a very long process. There is a community expectation that a number of outstanding and deferred issues will be dealt with by these studies. The recommendation does not specify an exhibition period, however a minimum of 6 weeks is planned. This can be extended based on community feedback.

CONCLUSION:

Council has undertaken to engage consultants to prepare the Tweed Valley Floodplain Risk Management Study and Plan. These draft documents have been received and are recommended for public exhibition by the Floodplain Management Committee. Extensive community consultation is planned during the exhibition period.

COUNCIL IMPLICATIONS:

a. Policy:

Flood Risk Management Version 1.0.

Development Control Plan Section A3 - Development of Flood Liable Land

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:

2 Supporting Community Life

2.3 Provide well serviced neighbourhoods

2.3.5 Ensure adequate stormwater drainage, flood management and evacuation systems are in place to protect people and property from flooding

2.3.5.7 Floodplain management services

2.3.5.7.2 Complete Tweed Valley Floodplain Risk Management Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Draft Tweed Valley Floodplain Risk Management Study (ECM 51797260).
 2. Draft Tweed Valley Floodplain Risk Management Plan (ECM 51799387).
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55 [EO-CM] EC2012-109 Supply of One (1) Padfoot Vibratory Drum Roller

SUBMITTED BY: Works

FILE REFERENCE: EC2012-109



Civic Leadership

SUMMARY OF REPORT:

Council advertised tender EC2012-109 on 10 March 2012 for the Supply of One (1) Self Propelled Single Drum Padfoot Vibratory Roller, CCF Class 15: Base Operating Weight 15,000Kg to 17,500Kg, with a closing date of 4 April 2012.

The tender was advertised in the following media groups:

Sydney Morning Herald
Brisbane Courier Mail
Gold Coast Bulletin
Tweed Link
Council's Web Site

This report outlines the tenders received for the supply of One (1) Padfoot Vibratory Drum Roller Unit.

The recommendation has been formulated based on the Selection Criteria which is contained in Confidential Attachment A

RECOMMENDATION:

That:

1. **Tender EC2012-109 for the Supply of One (1) Padfoot Vibratory Roller Unit be awarded to Conplant for the value of \$167,065 (exclusive of GST).**
2. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Background

Council Tender EC2012-109 used the open tender process to invite responses for the Supply of One (1) Padfoot Vibratory Drum Roller Unit for Council operations.

The following assessment criteria were used in the equipment evaluation process:

1. NPV – Price, Whole of Life.
2. Operational evaluation – Safety, build quality, emissions and environmental considerations, fuel consumption, operational ability, historic equipment issues, product backup, innovation, equipment and power train warranty.
3. Maintenance evaluation – Ease and speed of maintenance, service and parts accessibility on machine, technician's safety when servicing, parts availability from supplier, after sales service on previous machines, breakables and innovation in engineering.
4. Operator evaluation – Ergonomics in cab and controls, safety, power for application, comfort, access/egress, visual search and daily maintenance checks.

Tenders Received

A total of eight (8) responses were received for tender EC2012-109 Supply of One (1) Padfoot Vibratory Drum Roller Unit.

One (1) submission was deemed non compliant against Councils specification requirements - '*Base Operating Weight CCF Class15*' and '*Requested Attachments*' - the non-compliant unit being above the weight parameters requested in the tender, and the requested operational attachments not being available.

Compliant Responses:

1. Wirtgen Australia - HAMM 3414P
2. Conplant - AMMANN ASC150PD
3. CJD Equipment - VOLVO SD160F
4. WesTrac - CAT CP74
5. WesTrac - CAT CP76
6. JCB Construction Equipment - JCB VM166 VIBROMAX
7. Atlas Copco Construction Equipment - DYNAPAC CA5000CP

Non-Compliant Responses:

1. GCM Agencies - MULTIPAC SSR PD180

Short listing

The whole of Life and Operational evaluation was completed on all compliant responses. Without excluding any compliant submissions at this stage, the two highest weighted submissions were then chosen for the next stage - Operator and Maintenance evaluation; this process determines whether any more submissions are required for further evaluation consideration.

Tender Evaluation

The Tender and product evaluation was conducted by Council's Evaluation Panel, consisting of the Plant and Materials Coordinator, Maintenance Technician and Two Experienced Equipment Operators. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

The following table shows the Tenderers and their equipment, against each of the assessment criteria:

One (1) Padfoot Vibratory Drum Roller

	Assessment rating	40%	30%	15%	15%	
Tenderer	Make and Model	NPV (Whole of Life)	Operational Assessment	Operator Evaluation	Maintenance Evaluation	Total %
WIRTGEN AUSTRALIA	HAMM 3414P	40.0%	23.9%	12.4%	11.2%	87.5%
CONPLANT	AMMANN ASC150PD	37.7%	24.7%	13.7%	12.7%	88.8%
CJD EQUIPMENT	VOLVO SD160F	29.0%	22.2%	Not Shortlisted	Not Shortlisted	Not Shortlisted
WESTRAC	CAT CP74	28.8%	23.2%	Not Shortlisted	Not Shortlisted	Not Shortlisted
WESTRAC	CAT CP76	26.3%	23.3%	Not Shortlisted	Not Shortlisted	Not Shortlisted
JCB CONSTRUCTION EQUIPMENT	JCB VM166 Vibromax	28.2%	23.6%	Not Shortlisted	Not Shortlisted	Not Shortlisted
ATLAS COPCO CONSTRUCTION EQUIPMENT AUSTRALIA	DYNAPAC CA5000PD	29.6%	24.4%	Not Shortlisted	Not Shortlisted	Not Shortlisted

CONCLUSION:

After product analysis, product evaluation and criteria weighting, it is recommended that:

- CONPLANT be awarded Tender EC2012-109 for the Supply of One (1) Padfoot Vibratory Drum Roller to Tweed Shire Council

Details of Tenderers relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Evaluation Committee.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Funds Available in the 2011/2012 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1 Civic Leadership

1.3 Delivering the objectives of this plan

1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2012-109 Supply of One (1) Padfoot Vibratory Drum Roller (ECM 51844160).
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56 [EO-CM] EC2012-079 Supply of One (1) Heavy Commercial Street Sweeper

SUBMITTED BY: Works

FILE REFERENCE: EC2012-079



Civic Leadership

SUMMARY OF REPORT:

Tender EC2012-079 was advertised on 25 February 2012 for the Supply of One (1) Truck Mounted Street Sweeper Unit, with a closing date of 21 March 2012.

The tender was advertised in the following media groups:

Sydney Morning Herald
Brisbane Courier Mail
Gold Coast Bulletin
Tweed Link
Council's Web Site

This report outlines the tenders received for the supply of One (1) Truck Mounted Street Sweeper Unit for Council operations.

The recommendation has been formulated based on the Selection Criteria which is contained in Confidential Attachment A.

RECOMMENDATION:

That:

1. **Tender EC2012-079 Supply of One (1) Heavy Commercial Street Sweeper, be awarded to Rosmech and the trade-in offer by Rosmech for Council's existing sweeper unit, be accepted for the total value of \$266,804 (exclusive of GST).**
2. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:

Background

Council Tender EC2012-079 used the open tender process to invite responses for the Supply of One (1) Truck Mounted Street Sweeper Unit for Council's operations. As part of contract EC2012-079, a trade in offer was requested for Councils existing Street Sweeper.

The following assessment criteria were used in the equipment evaluation process.

1. NPV – Price, Whole of Life.
2. Operational evaluation – Safety, build quality, emissions and environmental considerations, fuel consumption, operational ability, historic equipment issues, product backup, innovation, equipment and power train warranty.
3. Maintenance evaluation – Ease and speed of maintenance, service and parts accessibility on machine, technician's safety when servicing, parts availability from supplier, after sales service on previous machines, breakables and innovation in engineering.
4. Operator evaluation – Ergonomics in cab and controls, safety, power for application, comfort, access/egress, dust suppression and pickup, visual search and daily maintenance checks.

Tenders Received

A total of six (6) responses were received for tender EC2012-079 Supply of One (1) Truck Mounted Street Sweeper Unit for Council operations.

Two (2) submissions were deemed non compliant against Councils specification requirements on '*Emissions Standards*'; being Euro 4 and not the requested current standard of Euro 5.

Compliant Responses:

1. McDonald Johnston - VT605 Hino FE1426 Chassis
2. Rosmech Scarab Mistral - Hino FG1628 Chassis
3. Schwarze Industries - Isuzu FRR600 Chassis
4. Schwarze Industries - Isuzu FSR850 Chassis

Non-Compliant Responses:

1. Rosmech Scarab Merlin - Nissan UD MK6 - Manual Chassis
2. Rosmech Scarab Merlin - Nissan UD MK6 - Automatic Chassis

Tender Evaluation

The Tender and product evaluation was conducted by Council's Evaluation Panel, consisting of the Plant and Materials Coordinator, Maintenance Technician and Two experienced Equipment Operators. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the

tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

The following table shows the Tenderers and their equipment, against each of the assessment criteria:

One (1) Truck Mounted Street Sweeper Unit

	Assessment rating	40%	30%	15%	15%	
Tenderer	Make and Model	NPV (Whole of Life)	Operational Assessment	Operator Evaluation	Maintenance Evaluation	Total %
McDonald Johnston	McDonald Johnson VT605	36.2%	25.4%	11.7%	10.1%	83.4%
Rosmech	Scarab Mistral	36.6%	26.1%	12.8%	11.9%	87.4%
Schwarze Industries - Option No1	A6500GS	40.0%	20.5%	11.1%	10.1%	81.7%
Schwarze Industries - Option No2	A6500GS	38.4%	20.5%	11.1%	10.1%	80.1%

CONCLUSION:

After product analysis, product evaluation and criteria weighting, it is recommended that:

- Rosmech be awarded Tender EC2012-079 for the supply of One (1) Truck Mounted Street Sweeper and acceptance of the trade-in offer of Council's existing sweeper unit.

Details of Tenderers' relative competitiveness is shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Evaluation Committee.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Funds available in the 2011/2012 Budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment A** - EC2012-079 for the Supply of One (1) Heavy Commercial Street Sweeper (ECM 51844154).
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57 [EO-CM] EC2012-085 Supply Contract for Sprayed Bituminous Surfacing at Various Locations

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

This report outlines the tender for EC2012-085 Supply and Spraying of Bituminous Surfacing at Various Locations with a two (2) year contract term commencing 1 July 2012 until 30 June 2014.

Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in Confidential Attachment A.

RECOMMENDATION:

That:

- 1. In relation to EC2012-085 Supply Contract for Sprayed Bituminous Surfacing at Various Locations, the tender from RPQ Spray Seal Pty Ltd be accepted for the period 1 July 2012 until 30 June 2014.**
- 2. ATTACHMENTS A AND B are CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Tenders closing 11 April 2012 have been called for the Supply Contract to provide Sprayed Bituminous Surfacing at Various Locations. The supply arrangement will be for a two (2) year period commencing 1 July 2012 until 30 June 2014.

Tenders Received

Following the close of tenders a total of four (4) responses had been received.

Submissions were received from the following Contractors:

RPQ Spray Seal	Boral Asphalt
Fulton Hogan	SRS Roads

Tender Evaluation

The Tender Evaluation was conducted by Council's Works Unit Maintenance Engineer, Construction Engineer and Contracts Unit Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on the evaluation contained in the confidential attachment, it is recommended that Council accepts the tender from RPQ Seal and Spray Pty Ltd to provide Sprayed Bituminous Surfacing at Various Locations for the period 1 July 2012 until 30 June 2014.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the tender from RPQ Seal and Spray Pty Ltd to provide Sprayed Bituminous Surfacing at Various Locations for the period 1 July 2012 until 30 June 2014.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 Maintenance Budgets for Bituminous Resurfacing Works.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.4 An integrated transport system that services local and regional needs
- 2.4.3 Ensure local streets, footpaths and cycleways are provided, interconnected and maintained
- 2.4.3.3 Complete annual road programs

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2012-085 Supply Contract for Sprayed Bituminous Surfacing at Various Locations (ECM52051846).
 2. **Confidential Attachment B** - EC2012-085 Supply Contract for Sprayed Bituminous Surfacing at Various Locations (ECM51315806).
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58 [EO-CM] EC2012-089 Provision of Linemarking Services

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

This report outlines the tender for the Provision of Pavement Linemarking Services to Council. The service contract will be for a two (2) year period commencing 1 July 2012 until 30 June 2014. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in Confidential Attachment A.

RECOMMENDATION:

That:

1. In relation to EC2012-089 Provision of Linemarking Services, Council accepts the tender of Linemarking Australia for the provision of Pavement Linemarking Services for a two (2) year period commencing 1 July 2012 until 30 June 2014.
2. ATTACHMENTS A and B are CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

REPORT:

Tenders closing 11 April 2012 have been called for the supply of Pavement Linemarking Services on Council's road network for the period 1 July 2012 until 30 June 2014. The tender called for the provision of standard linemarking services and the application of Thermoplastic road markings.

OPTIONS:

Not applicable.

CONCLUSION:

That Council accepts the recommendation that Linemarking Australia be appointed to undertake pavement linemarking services for the period 1 July 2012 until 30 June 2014.

Tenders Received

Following the close of tenders a total of two (2) submissions had been received.

Submissions received are as follows:

Linemarking Australia Pty Ltd Allstate Linemarking

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Council Manager Works, Signs and Markings Ganger and Contracts Unit Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on the evaluation contained in the Confidential Attachment, it is recommended that Council accepts the tender from Linemarking Australia for the provision of Pavement Linemarking Services for a two (2) year period commencing 1 July 2012 until 30 June 2014.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 Traffic Facilities Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.4 An integrated transport system that services local and regional needs
- 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities
- 2.4.1.4 Provide traffic facilities infrastructure, including signage and line marking,

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2012-089 Provision of Linemarking Services (ECM 51757809).
 2. **Confidential Attachment B** - EC2012-089 Provision of Linemarking Services (ECM 51316857).
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59 [EO-CM] EC2012-091 Annual Supply of Ready Mixed Concrete

SUBMITTED BY: Contracts



Civic Leadership

SUMMARY OF REPORT:

This report outlines the tender for EC2012-091 Annual Supply of Ready Mixed Concrete with a twelve (12) month contract period commencing 1 July 2012 until 30 June 2013. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in Confidential Attachment A.

RECOMMENDATION:

That:

- 1. In relation to EC2012-091 Annual Supply of Ready Mixed Concrete, Council accepts the tender from Holcim for the Supply of Ready Mixed Concrete for the period 1 July 2012 until 30 June 2013.**
- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Council tender EC2012-091 Annual Supply of Ready Mixed Concrete closed on 11 April 2012. The tender sought prices for the supply and delivery of ready mixed concrete for maintenance and construction purposes in various mix types and quantities across the Shire.

The supply contract is for the period 1 July 2012 until 30 June 2013.

Tenders Received

A total of five (5) submissions were received.

Submissions were received from the following suppliers:

Holcim Australia	Areas 1, 2 & 3
Brims	Areas 1, 2 & 3
Hymix	Areas 1 & 2
Nucon	Areas 1 & 2
Boral	Area 1

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Council's Works Unit Senior Construction Engineer, Construction Engineer and Contracts Unit Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on the evaluation contained in the Confidential Attachment, it is recommended that Council accepts the tender of Holcim Australia for the Supply of Ready Mixed Concrete for the period 1 July 2012 until 30 June 2013.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the submission from Holcim Australia for the supply of Ready Mixed Concrete for the period 1 July 2012 until 30 June 2013.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision made in 2012/2013 Maintenance and Capital Works budgets for the Supply of Ready Mixed Concrete.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.5 Procurement of works, goods and services by quotation and tendering.
Incorporate "value for money" criteria into Tender Evaluation Plans
- 1.3.2.5.1 Preparation of tender/quotation documents and contract administration and supervision

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment A** - EC2012-091 Annual Supply of Ready Mixed Concrete (ECM52051876).
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60 [EO-CM] EQ2012-032(B) Expression of Interest for the Supply of Hardware, Electrical and Plumbing Materials as a Preferred Supplier

SUBMITTED BY: Contracts



Civic Leadership

SUMMARY OF REPORT:

Submissions have been received from previously nominated suppliers on what level of discount is to be applied for hardware, electrical and plumbing materials purchased by Council under a Preferred Supplier arrangement.

RECOMMENDATION:

That:

- 1. In relation to EQ2012-032(B) Level of Discount to be Applied for the Supply of Materials to Council as a Preferred Supplier, Council accepts the discount levels as submitted and formal Preferred Supplier arrangements be entered into with nominated suppliers. The Preferred Supplier arrangement will commence on 1 July 2012 until 30 June 2013 with a possible further two (2) by twelve (12) month extension options.**
- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Council at its meeting of 17 April 2012 received a report detailing a list of local suppliers who nominated as willing to enter into a supply arrangement on a Preferred Supplier basis for the supply of hardware, electrical and plumbing materials. The preferred supplier arrangement will be for a twelve (12) month period from 1 July 2012 until 30 June 2013 with a possible further two (2) by twelve month extension options.

The list of local suppliers identified and endorsed by Council as Preferred Suppliers is as follows;

Supplier	Material	Location
Budds Mitre 10	Hardware/ Plumbing	Murwillumbah
L&H Group	Electrical	Tweed Heads South
Williams Group	Hardware/Electrical/Plumbing	Murwillumbah
Southern Cross Fasteners	Hardware	Tweed Heads South
Tweed Heads Plumbing	Plumbing	Tweed Heads South
Ideal Electrical Supplies	Hardware / Electrical	Murwillumbah
Aussie Fasteners	Hardware	Murwillumbah
Cetnaj	Electrical	Tweed Heads South
Tweed Bolt Supplies	Hardware	Tweed Heads South
Haymans Electrical	Electrical	Tweed Heads South

In accordance with Council recommendation of 17 April 2012 the above suppliers were duly contacted and requested to nominate the level of discount that will be applied for all purchases of materials by Council over the period of the Preferred Supplier arrangement.

Submissions detailing discount provision that would apply closed on 30 May 2012.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the discount levels as submitted and enters into formal Preferred Supplier arrangements with nominated suppliers.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

No direct budget implications. Day to day purchases for operational needs to carry out budgeted maintenance functions.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.5 Procurement of works, goods and services by quotation and tendering.
Incorporate “value for money” criteria into Tender Evaluation Plans
- 1.3.2.5.1 Preparation of tender/quotation documents and contract administration and supervision

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment A** EQ2012-032(B) Level of Discount to be Applied for the Supply of Materials to Council as a Preferred Supplier (ECM 51845226).
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61 [EO-CM] EC2012-165 Manufacture, Supply, Delivery and Unloading of 2250mm diameter, RRJ, CL 2, SWC, RCP Stormwater Pipes

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

Tenders closing 13 June 2012 have been called for the Manufacture, Supply, Delivery and Unloading of 2250mm Diameter, Rubber Ringed Joint, Class 2, Salt Water Cover, Reinforced Concrete Stormwater Pipes.

The pipes are to be used in the stormwater upgrade of Blue Jay Circuit, Kingscliff.

The tender called for the supply of approximately 410 metres (including angled bends) of 2250mm diameter stormwater pipe.

RECOMMENDATION:

That:

- 1. In relation to Tender EC2012-165 for the Manufacture, Supply, Delivery and Unloading of 2250mm diameter, RRJ, CL2, SWC, and RCP Stormwater Pipes Council awards Rocla the supply of materials listed in Schedule A and B with a contract value of \$939,674 GST exclusive.**
- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Tenders closing 13 June 2012 have been called for the Manufacture, Supply, Delivery and Unloading of 2250mm diameter, Rubber Ringed Joint, Class 2, Salt Water Cover, Reinforced Concrete Stormwater Pipes.

The pipes are to be used in the stormwater upgrade of Blue Jay Circuit, Kingscliff.

The tender called for the supply of approximately 410 metres (including angled bends) of 2250mm diameter stormwater pipe.

TENDERS RECEIVED

Following the close of tenders two (2) submissions were received.

Submissions were received from Rocla and Promains.

TENDER EVALUATION

The Tender Evaluation was conducted by Council's Senior Construction Engineer, Senior Design Engineer and Contracts Unit Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on the evaluation contained in the Confidential Attachment, it is recommended that Council accepts the tender from Rocla for the supply of 2250mm diameter Reinforced Concrete Stormwater Pipes and precast headwall.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the tender from Rocla for the supply of 2250mm diameter Reinforced Concrete Stormwater Pipes and Precast Headwall.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision has been made in the 2012/2013 budget allocations for the stormwater upgrade of Blue Jay Circuit, Kingscliff.

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
- 2.3.5 Ensure adequate stormwater drainage, flood management and evacuation systems are in place to protect people and property from flooding
- 2.3.5.2 Provision of design unit survey and environmental services for stormwater and flood mitigation infrastructure
- 2.3.5.2.2 Undertake survey works for stormwater and flood mitigation infrastructure including schedules of quantities and cost estimates

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment A** - EC2012-165 Manufacture, Supply, Delivery and Unloading of 2250mm diameter, RRJ, CL 2, SWC, RCP Stormwater Pipes (ECM52051818).
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62 [EO-CM] EQ2012-123 Supply and Delivery of Selected Materials

SUBMITTED BY: Contracts

**Civic Leadership****SUMMARY OF REPORT:**

This report outlines the tender for EQ2012-123 Supply and Delivery of Selected Materials.

The supply period will be for a twelve (12) month term from 1 July 2012 until 30 June 2013. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A.**

RECOMMENDATION:

That:

1. The tenders for EQ2012-123 Supply and Delivery of Selected Materials for the period 1 July 2012 until 30 June 2013 be awarded to the following suppliers:-

ITEM	SUPPLIER
Concrete Pipes	Rocla Pty Ltd
Concrete Surrounds	Rocla Pty Ltd
Concrete Kerb Inlets	Rocla Pty Ltd
Concrete Headwalls	Rocla Pty Ltd
Herbicides	J.H. Williams and Sons
Premix Cement	J.H. Williams and Sons
Bagged Cement	J.H. Williams and Sons
Reinforcing Mesh	J.H. Williams and Sons
Ag Pipe	J.H. Williams and Sons
90mm dia. PVC SW Pipe	J.H. Williams and Sons
Geotextile Material	Geofabrics
Electrode 12P	J.H. Williams and Sons
Form Ply 2.4 x 1.2	J.H. Williams and Sons
Woven Silt Film	J.H. Williams and Sons
Star Pickets 1.67m Bitumen Coat	J.H. Williams and Sons

2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

REPORT:

Quotations closing 23 May 2012 were called for the Supply of Selected Materials into Council's Murwillumbah Depot Store for the period 1 July 2012 until 30 June 2013.

The supply contracts are called on an annual basis for selected large dollar turnover items purchased for issue through the Store.

Items offered to tender are as follows:

Concrete Pipes	Concrete Surrounds
Concrete Kerb Inlets	Concrete Headwalls
Herbicides	Premix Cement
Bagged Cement	Reinforcing Mesh
Ag Pipe	90mm dia. PVC Stormwater Pipe
Geotextiles Material	Electrode 12P
Form Ply 2.4 x 1.2	Woven Silt Film
Footpath Materials	Star Pickets 1.67m Bitumen Coat

TENDERS RECEIVED

Following the close of tenders a total of eight (8) submissions had been received.

Submissions received are as follows:

Blackwoods
Budds Mitre 10
Geofabrics
Iplex Pipelines
Lindsay Rural
J.H. Williams and Sons
RCPA
Rocla Pty Ltd

TENDER EVALUATION:

A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenderers, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

Based on the conforming prices received and previous supply history considerations, it is recommended that the following suppliers be awarded supply contracts for the period 1 July 2012 until 30 June 2013.

ITEM	SUPPLIER
Concrete Pipes	Rocla Pty Ltd
Concrete Surrounds	Rocla Pty Ltd
Concrete Kerb Inlets	Rocla Pty Ltd
Concrete Headwalls	Rocla Pty Ltd
Herbicides	J.H. Williams and Sons
Premix Cement	J.H. Williams and Sons
Bagged Cement	J.H. Williams and Sons
Reinforcing Mesh	J.H. Williams and Sons
Ag Pipe	J.H. Williams and Sons
90mm dia. PVC SW Pipe	J.H. Williams and Sons
Geotextiles Material	Geofabrics
Electrode 12P	J.H. Williams and Sons
Form Ply 2.4 x 1.2	J.H. Williams and Sons
Woven Silt Film	J.H. Williams and Sons
Star Pickets 1.67m Bitumen Coat	J.H. Williams and Sons

OPTIONS:

Not Applicable.

CONCLUSION:

That Council accepts the recommendation set out in the table within the Recommendation for EQ2012-123 Supply and Delivery of Selected Materials for the period 1 July 2012 until 30 June 2013.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

No direct budget implications. Day to day purchases for operational needs to carry out budgeted maintenance functions.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.5 Procurement of works, goods and services by quotation and tendering. Incorporate "value for money" criteria into Tender Evaluation Plans
- 1.3.2.5.1 Preparation of tender/quotation documents and contract administration and supervision

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EQ2012-123 Supply and Delivery of Selected Materials (ECM 51855837).
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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

63 [TCS-CM] Review of the Model Code of Conduct

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

In 2011 the Division of Local Government commenced a review of Model Code of Conduct for all New South Wales Local Councils. In response to the consultation process with Local Councils the Division received 122 submissions for the discussion paper and a further 93 submissions on the position paper. In addition the Division held regional workshops to refine the proposal.

Following this consultation, the Division has now released a Draft Model Code of Conduct for Council's comment to be received by 26 June 2012.

The Division of Local Government is proposing to amend the Model Code, to establish new procedures for the administration of the Model Code and to amend the *Local Government Act 1993* (NSW) and *Local Government (General) Regulations 2005* (NSW).

The proposed amendments to section 440 of the *Local Government Act 1993* will require councils to adopt both a 'Model Code of Conduct' and 'Administration Procedures' for the Model Code. Guidelines will be developed to assist Council's in the implementation of the Administration Procedures

Changes to the Model Code of Conduct includes among other things the prohibition of a binding caucus vote, clarification of reportable political donations, the loss of meeting quorum resulting from compliance to the Model Code, extending relationships between Council officials, prohibiting the use of Council resources for election purposes and extending benefits to cash like gifts.

Details of the proposed 'Draft Model Code of Conduct' and the 'Administration Procedures' for the Model Code of Conduct are contained within this report.

RECOMMENDATION:

That the following be submitted to the Division of Local Government for the review of the Model Code of Conduct for Local Councils:

1. The proposed amendment to Section 193(2) *Local Government (General) Regulations 2005* (NSW) referencing an 'organisation prescribed under this Regulation'. The term 'organisation prescribed' should be expressly accompanied by a list of organisational names that are prescribed organisations. The current term is incapable of being understood without reference to who is a prescribed organisation.
2. The term 'token value' in Clauses 5.4, 5.5 and 5.7 of the Model Code of Conduct is imprecise and uncertain. A narrower definition of a token value is needed either by reference to a specific dollar value or a range of dollar values. All terms in the Model Code of Conduct must be clear so that a person who is bound by obligations of the Model Code of Conduct can clearly identify when they have acted in a way that is in breach the Model Code of Conduct A term that requires a subjective interpretation will not enable a person to know when they have acted in breach of a term of the Model Code of Conduct.
3. The term 'other alternative means' of dispute resolution in Clause 4.11 of the Procedures for the Administration of the Model Code of Conduct is ambiguous. The term 'other alternative means' should be reworded to include 'other appropriate alterative means' to limit the scope of suggested alternative means of dispute resolution to only legal types.
4. Directions on how investigations are conducted in Clause 8.16 of the Procedures for the Administration of the Model Code of Conduct be amended to include the words 'Investigations are to be undertaken in the absence of the public and in confidence and should include a requirement for a 'confidentiality undertaking'.
5. The term "identify" in Clause 4.2 of the Model Code of Conduct should be replaced with the word "recognise" so that the onus is on a person to recognise or acknowledge the existence of a conflict of interest.
6. The incorrect naming of Department of Local Government in the proposed Section 440(10) and Section 440J(2) of the *Local Government Act 1993* (NSW) should reference to the Division of the Local Government.

REPORT:

Background to the Model Code of Conduct

All New South Wales local councils must adopt a Model Code of Conduct ('the Model Code') in accordance with section 440 of the *Local Government Act 1993* (NSW). Councillors, Administrators, members of Council staff, independent Conduct Reviewers, members of Council's Committees and delegates of Council must carry out their civic functions to a prescribed standard of conduct set by the Model Code. Failure to comply with a standard of conduct set by the Model Code will constitute misconduct for the purpose of *Local Government Act* leading to suspension or disqualification from a civic office.

Council officials must act honestly, with reasonable diligence and degree of care required by section 439 of the *Local Government Act* in order to instil public confidence in the integrity of Local Government. The Model Code has been developed to assist Council officials to understand the prescribed standard of conduct expected of them.

Proposed changes to the Model Code of Conduct

The Division of Local Government is proposing to amend the Model Code, to establish new procedures for the administration of the Model Code and to amend the *Local Government Act 1993* (NSW) and *Local Government (General) Regulations 2005* (NSW).

The following changes are proposed to the Model Code;

- New provisions in Part 3 prohibit a binding caucus vote that prevents a councillor from using his or her discretion. Councillors will still however be permitted to meet and discuss Council business ahead of a meeting.

3.9	You must not participate in binding caucus vote
3.10	For the purpose of clause 3.9, a binding caucus vote is a process whereby a group of councillors establish a predetermined position of a matter before the council by way of a vote or other means that has the effect of compelling members of the group to vote on that matter in accordance with the position regardless of the merits of the matter or any personal views members of the group may have on the matter.
3.11	Clause 3.9 does not prohibit councillors from discussing a matter before the council prior to considering the matter in question at a council meeting.

- New and changed provisions in Part 4 to clarify the requirements for the disclosure of reportable political donations and to remove all loopholes in the legislation.

4.2	The onus is on you to identify a conflict of interest and take the appropriate action to manage the conflict in favour of your public duty. The word "identify" should be replaced with "recognise".
4.21	Councillors should take all reasonable steps to ascertain the source of any reportable political donations.

4.22	<p>Where a councillor has received a direct benefit to their election campaign from a reportable political donation:</p> <p>a) Made by a major political donor or a related entity in the previous four years; and</p> <p>b) Where the major political donor or related entity has a matter before the council,</p> <p>Then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interest in accordance with clause 4.16(b).</p>
4.23	<p>The obligation to disclose and manage a conflict of interests under clause 4.22 will only arise where there is a direct and demonstrable connection between the reportable political donation in question and any benefit to the election campaign of the councillor.</p>
4.24	<p>For the purpose of this Part (Part 4):</p> <p>a) a “reportable political donation” is a “reportable political donation” for the purpose of section 86 <i>Election Funding Expenditure and Disclosure Act 1981</i> (NSW).</p> <p>b) a “major political donor” is a “major political donor” for the purpose of section 84 <i>Election Funding Expenditure and Disclosure Act 1981</i> (NSW).</p> <p>c) a “related entity” is a “related body corporate for the purpose of section 50 <i>Corporations Act 2001</i> (Cth).</p>
4.25	<p>Inserts the word “donations” into existing provision</p> <p>Councillors should note that political “donations” below \$1,000 or political “donations” to a registered political party or group by which a councillor is endorsed....</p>
4.26	<p>Inserts the words “direct benefit to their election campaign from a reportable political donation” into an existing provision</p> <p>‘If a councillor has received a “direct benefit to their election campaign from a reportable political donation” of the kind referred to in clause 4.22’.</p>

- New and changed provisions in Part 4 that manage the loss of a meeting quorum arising from compliance with Part 4 Conflict of Interest of the Draft Model Code.

4.28	<p>Where a majority of councillors are precluded from consideration of a matter under this part (Part 4), and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the <i>Local Government Act 1993</i> (NSW), the councillors may apply in writing to the Chief Executive to be exempt from complying with the requirement under this Part.</p>
4.29	<p>The Chief Executive will only exempt a councillor from complying with a requirement under this Part where</p> <p>a) compliance by councillors with a requirement under the Part in relation to a matter before the council will result in the loss of a quorum, and</p> <p>b) the matter before the council relates to the exercise of a function of the council that may not be delegated under section 377 of the <i>Local Government Act 1993</i> (NSW)</p>

4.30	<p>A councillor who would otherwise be precluded from participating in the consideration of a matter under this part (Part 4) is permitted to participate in consideration of the matter, if;</p> <ul style="list-style-type: none"> a) the matter is a proposal relating to <ul style="list-style-type: none"> i. the making of a principal environmental planning instrument applying to the whole or a significant part of the councils area or ii. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area and b) the councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this part.
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- New and changed provisions in Part 5 that expand the prohibition of acceptance of cash to include 'cash-like gifts'.

5.5	<p>Additional threshold for a benefit being a "cash-like gift" regardless of amount, a new clause e) is added.</p> <p>You must not:</p> <ul style="list-style-type: none"> e) Accept an offer of cash or "cash-like gift" regardless of amount in point.
5.6	<p>For the purpose of clause 5.5(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.</p>

- New and changed provisions in Part 6 that amendments to provisions relating to relationships between Council Officials for the purpose of;
 - Allowing councillors to provide information to the Chair of the Audit Committee,
 - Prohibition Council staff from participating in political activities that interfere with their duty to serve the Council in a politically neutral manner and
 - Allowing Councillors to discuss the General Manager's performance with him or her.

6.2	<p>Extending point (d) with the addition of wording:</p> <p>"This does not apply to council's external auditors or Chair of council's audit committee who, in the course of their work, may be provided with information by individual councillors."</p> <p>Councillors or administrators must not:</p> <ul style="list-style-type: none"> d) Contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the <i>Local Government Act 1993</i> (NSW). "This does not apply to council's external auditors or Chair of council's audit committee who, in the course of their work, may be provided with information by individual councillors."
6.4	<p><i>Obligations of staff</i></p> <p>addition of a new sub point e) to include:</p> <ul style="list-style-type: none"> e) Ensure that any participation in political activities does not conflict with their primary duty to serve the council in a politically neutral manner.

6.7	<i>Inappropriate interactions</i> Extension of subsections to include point i) being: i) Council staff meeting with development applicants or objectors to development applications alone and outside office hours to discuss development applications of proposals.
6.9	Notwithstanding clause 6.7, councillors and administrators may discuss issues with the general manager relating to the general manager's employment and performance provided they do so in a manner that is consistent with the requirements of the general manager's employment contract.

- New and changed provisions in Part 7 that eliminate loopholes in provisions relating to the use of Council resources for election purposes.

7.1	The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the <i>Government Information (Public Access) Act 2009</i> (NSW).
7.16	You must not use council property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the property or facility.
7.17	You must not use council letterhead, council crests and other information that could give the appearance it is official council material for: a) The purpose of assisting your election campaign or the election campaign of others or b) For other non-official purposes.

- A new Part 8 creates an entirely new class of standards for the integrity of the Code of Conduct with breaches of the standards to be dealt with by the Division of Local Government via provisions of misbehaviour under the Local Government Act.

8.1	You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.
8.2	<i>Complaints made for an improper use</i> You must not make a complaint or cause a complaint to be made for an improper purpose.
8.3	For the purpose of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes: a) to intimidate or harass another council official, b) to damage another council official's reputation, c) to obtain a political advantage, d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions, e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions, f) to avoid disciplinary action under this code, g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code,

	<p>h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code,</p> <p>i) to prevent or disrupt the effective administration of this code.</p>
8.4	<p><i>Detrimental action</i></p> <p>You must not take detrimental action or caused detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.</p>
8.5	<p>You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.</p>
8.6	<p>For the purpose of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:</p> <p>a) injury, damage or loss,</p> <p>b) intimidation or harassment,</p> <p>c) discrimination, disadvantage or adverse treatment in relation to employment,</p> <p>d) dismissal from, or prejudice in, employment and</p> <p>e) disciplinary proceedings.</p>
8.7	<p><i>Compliance with requirements under this code</i></p> <p>You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.</p>
8.8	<p>You must comply with a reasonable and lawful request made by a person exercising a function under this code.</p>
8.9	<p>You must comply with a practice ruling made by the Division of Local Government.</p>
8.10	<p>Where you are a councillor, you must comply with any council resolutions requiring you to take action as a result of a breach.</p>
8.11	<p><i>Disclosure of information about the consideration of a matter under this code</i></p> <p>You must report breaches of this code in accordance with the reporting requirements under this code.</p>
8.12	<p>You must not make allegations of suspected breaches of this code at council meetings or in other public forums.</p>
8.13	<p>You must not disclose information about the consideration of a matter under this code unless the disclosure is otherwise permitted under this code.</p>
8.14	<p><i>Complaints alleging a breach of this part</i></p> <p>Complaints alleging a breach of this part (Part 8) by a councillor, the general manager or an administrator are to be made to the Division of Local Government.</p>
8.15	<p>Complaints alleging a breach of this part (Part 8) by other council officials are to be made to the general manager for consideration under the procedures prescribed under the Regulations for the administration of this code.</p>

Additional items contained in Tweed Shire Council's Code of Conduct Version 1.8 to the current Model Code of Conduct

Tweed Shire Council's Code of Conduct version 1.8 dated 15 March 2011 is based on the Division's current Model Code. Tweed Shire Council sought to extend the provisions in the Model Code of Conduct through the addition of the following items:

- 6.14 Alcohol and other drugs. Council officials must not be intoxicated or drug affected when performing their official duties. Intoxication by alcohol or being drug affected is an unsafe personal condition and is proven to be a hindrance to the performance of official duties. A person, so affected, cannot provide the high standard of service required and is impaired in their ability to make decisions. It may also bring into question the validity of decisions made while under the influence of alcohol or other drugs. Such a person could also expose others to an unacceptable level of risk.
- 9.9 Meeting with Developer and Consultants. All Council Officials must record details of all meetings relating to development applications or sale of Council Property, which take place with Developers and Consultants involved on the appropriate form (file note) or electronic record and forward to other councillors and appropriate staff. The record will include information on any meetings with persons who may want to develop or have other matters that should be reported to Council, excluding general and counter enquires. The appropriate form must be registered in Council's Corporate Records Management system within five (5) days of the meeting.
- 10.22 Public comment by Council Officials. Councillors and staff must ensure that they fully understand the requirements / delegations under which they are permitted to make a public comment prescribed in Council's Media Policy. If staff are in doubt authorisation should be obtained from the General Manager. Public comment refers to:
 - Speaking engagements, and
 - Expressing either council or personal views verbally (including on radio and television) and in writing in the public domain.

Council can include these additional items into the Model Code of Conduct when it is formally adopted.

Proposed Procedures for the Administration of the Model Code of Conduct

The proposal is to further amend section 440 of the *Local Government Act 1993* (NSW) to require NSW Local Councils to adopt both a Model Code of Conduct and Administration Procedures for the Model Code. Guidelines will also be developed to assist Council's in the implementation of the Administration Procedures.

Administration Procedures for the Model Code will contain the following proposals:

- Conduct Reviewer Panel must be established by the Council which may be a regional panel. Council's will have an option to use Conduct Reviewers from a panel established by a prescribed organisation. The selection process and criteria for membership on the Conduct Review Panel will be prescribed by legislation.
- A Complaints Coordinator must be a nominated officer of Council for the purpose of supporting the administration of the Model Code.

- The role of the General Manager or the Mayor is limited to only receiving complaints about Councillors or the General Manager. The General Manager or Mayor will retain discretion to elect to resolve these types of complaints informally. Otherwise all complaints received about Councillors or the General Manager will be dealt with by an independent Conduct Reviewer.
- A Conduct Reviewer will preliminary assess all Code of Conduct complaints unless the number or nature of complaints impose an undue cost burden on the Council or has the effect of seriously impeding the administration of the Model Code by the Council. A time limit will be set on the preliminary assessment of complaints.
- A Conduct Reviewer will solely investigate complaints that are preliminary assessed to be of sufficient seriousness to warrant an investigation.
- A Conduct Review Committee will consist of three members only with limited investigation scope. Legislation will mandate all investigations are conducted with procedural fairness.
- An investigator will determine all breaches of the Code of Conduct in confidence. Reports will only be issued to Councils that recommend severe sanctions. It is proposed that section 10A of the *Local Government Act* will be amended to permit Councils to consider an investigator's report in closed meeting of Council.
- Council's role is strictly limited to imposing severe sanctions only where the sanctions has been recommended in the investigator's report. The General Manager may implement lesser sanctions for example training or counselling or in the case of a complaint about the General Manager or Mayor.
- A person found in breach of the Model Code will have a limited right of review. Only a person who has had sanctions imposed can apply to the Division of Local Government for a determination review.

Tweed Shire Council Conduct Review Committee / Sole Reviewer Policy

Tweed Shire Council Conduct Review Committee/ Sole Reviewer Policy version 1.1 dated 18 May 2010 establishes the makeup, role and functions of a Conduct Review Committee or Sole Reviewer in investigating alleged breaches of Council's Code of Conduct referred by the General Manager or alleged breaches of Council's Code of Conduct by the General Manager referred to it by the Mayor. This Policy will be reviewed following the adoption of a new Code of Conduct as proposed.

Proposed new disciplinary measures

It is proposed that the term 'misbehaviour' be substituted with 'misconduct' to more accurately reflect the nature of the conduct being dealt with. Sanctions for proved misconduct will extend beyond suspension to a broader range of disciplinary actions. Furthermore it is proposed the Division of Local Government will have the power to "call in" code of conduct matters so the matter can be dealt with under the *Local Government Act 1993* (NSW) misconduct provisions instead of a Council's Code of Conduct. Tribunal powers

will be extended to disqualify a Councillor from holding civic office for a period not exceeding five years for misconduct.

Submission Response

The Division of Local Government is seeking responses to the Draft Model Code by 26 June 2012. Council has identified a number of terms within the Draft Model Code that are unclear and capable of being more clearly stated. A summary of possible enhancements are:

- The proposed amendment to section 193 (2) *Local Government (General) Regulations 2005* (NSW) with reference to Conduct Reviewers, a reference is made to an 'organisation prescribed under this Regulation'. Part 6 of the Procedures for the Administration of the Model Code clauses 6.2(b) and 7.2(b) make similar references to an 'organisation prescribed under the Regulation'.

Tweed Shire Council suggests the term 'organisation prescribed' is expressly accompanied by a list of organisational names that are prescribed organisations. The current term is incapable of being understood without reference to who is a prescribed organisation.

- A subjective discretion is attached to the term 'token value'. Part 5 of The Model Code deals with personal benefits with clause 5.3 referring to a 'token gift'. A token gift is defined as a non-exclusive list of things with clauses 5.4, 5.5 and 5.7 referring to accepting a token gift or benefit to the value of a 'token value'.

Tweed Shire Council suggests the term 'token value' is imprecise and uncertain. A narrower definition of a token value is needed either by reference to a specific dollar value or a range of dollar values. All terms in the Model Code must be clear so that a person who is bound by obligations of the Model Code can clearly identify when they have acted in a way that is in breach the Model Code. A term that requires a subjective interpretation will not enable a person to know when they have acted in breach of a term of the Model Code.

- A reference to 'other alternative means' of dispute resolution is ambiguous. Part 4 of the Procedures for the Administration of the Model Code clause 4.11 makes a vague reference to a complaint being resolved by mediation or by 'other alternative means.'

Tweed Shire Council suggests the term 'other alternative means' be reworded to include 'other appropriate alternative means' to limit the scope of suggested alternative means of dispute resolution to only legal types.

- Incomplete directions on how investigations are conducted. Part 8 of the Procedures for the Administration of the Model Code clause 8.16 infers that conduct review investigations are undertaken at any time so long as the public is not included. The directions fail to consider confidentiality.

Tweed Shire Council suggests that clause 8.16 be amended to include the words 'Investigations are to be undertaken in the absence of the public and in confidence' and should include a requirement for a 'confidentiality undertaking'.

- The onus under Clause 4.2 of the Model Code of Conduct suggests a person is to identify a conflict of interest.

Tweed Shire Council suggests the word "identify" be changed to "recognise" so that the onus is on a person to recognise or acknowledge the existence of a conflict of interest.

- Incorrect naming of Division of Local Government. The proposed Section 440 (10) and Section 440J (2) of the Local Government Act 1993 (NSW), (Act') makes reference to the Department of Local Government. Reference to the Division of Local Government should be made.

Correct naming must be used with the wording changed to the Division of the Local Government.

OPTIONS:

Not Applicable.

CONCLUSION:

As per the Recommendation.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Conduct Version 1.8.

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
- 1.2.1.1 Compliance with Code of Conduct and Code of Meeting Practice

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Division of Local Government Circular to Councils 12-10 and Review of the Model Code of Conduct for Local Councils in NSW - Consultation Drafts (ECM 51555380).
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64 [TCS-CM] Mayor and Councillors Annual Remuneration 2012/2013

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

The Local Government Remuneration Tribunal has made a determination under Sections 239 and 241 of the Local Government Act 1993 in relation to fees payable to Mayors and Councillors for the 2012/2013 financial period, based on a 2.5 per cent increase over the fees payable in 2011/2012.

Council needs to determine the fees payable to the Mayor and Councillors for 2012/2013.

RECOMMENDATION:

That the annual fees payable for the Mayor and Councillors for the 2012/2013 financial period be:

Mayor	\$37,230
Councillors	\$17,060

in accordance with the maximum fees as determined by the Local Government Remuneration Tribunal.

REPORT:

The Local Government Remuneration Tribunal has made a determination under Sections 239 and 241 of the Local Government Act 1993 in relation to fees payable to Mayors and Councillors for the 2012/2013 financial period.

Council is one of the thirty two (32) councils classified within the category of Regional Rural. The Tribunal considered the creation of a new category, based upon a submission from Shoalhaven Council, seeking the establishment of a new category to cater for Larger Regional Rural Councils, which would have included Tweed Shire Council. At this point of time the Tribunal does not support the creation of this proposed new category.

In accordance with Section 241 of the Local Government Act 1993, the Tribunal has determined minimum and maximum annual fees payable to Mayors and Councillors, based upon an increase of 2.5 per cent, over the fees payable in 2011/2012. The determination in relation to the Regional Rural category is disclosed in the following table:

	2012/2013		2011/2012	
	Minimum	Maximum	Minimum	Maximum
Councillor	\$7,740	\$17,060	\$7,550	\$16,640
Mayor*	\$16,480	\$37,230	\$16,080	\$36,320

* The Mayoral fee is payable in addition to the fee paid to the Mayor as a Councillor in accordance with Section 249(2) of the Local Government Act 1993.

OPTIONS:

Council can determine the fees applicable across the range from between the minimum to the maximum.

CONCLUSION:

That Council determines the applicable fees payable for the 2012/2013 financial period.

COUNCIL IMPLICATIONS:

a. Policy:

Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Version 1.5; in accordance with Determination by the Local Government Remuneration Tribunal.

b. Budget/Long Term Financial Plan:

Adequate allowance has been made in the 2012/2013 Estimates for Mayor and Councillors Remuneration.

Payment of the maximum fees will result in an expenditure of \$156,650, compared to \$152,800 in 2011/2012.

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.
- 1.2.1.2 Provide information to Councillors to enable them to carry out their civic office functions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Determination of the Local Government Remuneration Tribunal dated 27 April 2012 (ECM 50292564).
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65 [TCS-CM] 2011/2015 Delivery Program, 2012/2013 Operational Plan, 2012/2013 Budget, 2012/2013 Revenue Policy and Statement, 2012/2013 Resourcing Strategy and 2012/2013 Fees and Charges

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Tweed Shire Council has a current Delivery Program 2011/2015 which describes all activities that Council is planning to engage in over that four year period. Council must prepare an annual Operational Plan which details specific activities from the Delivery Program that Council intends to undertake during the next financial year.

As a result Council placed its Draft Operational Plan 2012/2013, Draft Revenue Policy and Statement 2012/2013, Draft Budget 2012/2013, Draft Fees and Charges 2012/2013 and associated Resourcing Strategy on public exhibition for a period of 28 days closing on Friday 25 May 2012.

In accordance with the Council's Community Engagement Strategy Council sought community input into the Draft Operational Plan 2012/2013 and associated plans. In addition Council convened three 'round table' community discussion sessions with invited community groups and business representatives. Council also sought general community feedback by advertising the period submissions could be received in the Tweed Link and a general Media Release.

This report contains a summary of community submissions received by Council during the period of public exhibition together with results of the three 'round table' discussion sessions. Moreover this report details changes to the Draft Budget 2012/2013 and Draft Fees and Charges 2012/2013 in response to community feedback and other omissions.

Council must consider all public submissions received concerning the Draft Operational Planning document before making a final decision to adopt the Plan and set Council's works direction for the next financial year.

RECOMMENDATION:

That Council:

1. Adopts the:

- **2011/2015 Delivery Program;**

- 2012/2013 Operational Plan;
- 2012/2013 Budget;
- 2012/2013 Option B Revenue Policy and Statement;
- 2012/2013 Resourcing Strategy; and
- 2012/2013 Fees and Charges.

as exhibited with the following amendments:-

- **2012/2013 Revenue Policy and Statement Part A**

Interest Chargeable on Outstanding Rates and Charges

For the period 1 July 2012 to 30 June 2013 the rate of interest that Council will apply in respect of rates and charges that remain unpaid after they become due and payable is 10 percent per annum.

Land Cost Indexation

The wording of the second paragraph under Land Cost Indexation (page 49) of the Draft Revenue Policy and Statement 2012/2013 Part A, will be amended to:

'Section 94 Plans contain clauses which allow for annual indexation of infrastructure contribution rates in accordance with the provisions of Regulation 32 of the Environmental Planning and Assessment Act 2000 (NSW). On each 1 July any land purchase component of contribution rates in each Section 94 Plan will be adjusted with reference to the clause in the Plan and the Tweed Shire Council Land Cost Index and applied to outstanding developer contributions in accordance with consent conditions'.

- **Budget 2012/2013 Part B.**

Item	Description	Original	Adjustment	Revised	Comment
1	Pools funding - internal transfer	(\$320,000)	\$320,000	\$0	Adjustment to funding – now funded from reserves and 7 Year Plan budgets
1	Pools funding - Reserves		(\$105,000)	(\$105,000)	Adjustment to funding – works carried forward from 2011/2012
1	Parks Asset renewal	\$375,312	(\$110,000)	\$265,312	Adjustment to funding – 7 Year Plan budget
1	Botanic Gardens recurring costs	\$75,000	(\$75,000)	\$0	Adjustment to funding – 7 Year Plan budget
1	Botanic Gardens VIC recurring costs	\$30,000	(\$30,000)	\$0	Adjustment to funding – 7 Year Plan budget
2	Single Coastal Reserve - Rec Services	\$0	\$390,000	\$390,000	Reallocation of budget Funding – see March Budget Review

Item	Description	Original	Adjustment	Revised	Comment
2	<i>Tweed Coast parks</i>	\$855,159	(\$140,000)	\$715,159	<i>Reallocation of budget Funding – see March Budget Review</i>
2	<i>Electric barbecues</i>	\$129,260	(\$45,000)	\$84,260	<i>Reallocation of budget Funding – see March Budget Review</i>
2	<i>Public parks furniture</i>	\$56,353	(\$20,000)	\$36,353	<i>Reallocation of budget Funding – see March Budget Review</i>
2	<i>Asset management</i>	\$189,952	(\$35,000)	\$154,952	<i>Reallocation of budget Funding – see March Budget Review</i>
2	<i>Public toilets</i>	\$771,398	(\$150,000)	\$621,398	<i>Reallocation of budget Funding – see March Budget Review</i>
3	<i>Amenities Hall Kingscliff</i>	\$0	\$500,000	\$500,000	<i>Deferred from 11/12 – see March Budget Review</i>
3	<i>7YP loan funding</i>	\$0	(\$500,000)	(\$500,000)	<i>Deferred from 11/12 – see March Budget Review</i>
4	<i>Workers Comp Insurance</i>	\$3,033,606	(\$2,255,210)	\$778,396	<i>Correction to reflect reduced premium as advised by insurer</i>
4	<i>Workers Comp On Costs</i>	\$(3,501,533)	\$2,255,210	(\$1,246,323)	<i>Correction to reflect reduced premium as advised by insurer</i>
5	<i>Domestic Waste Service expenses</i>	\$7,432,508	\$1,333,558	\$8,766,066	<i>Update – Waste Budget now finalised</i>
5	<i>Domestic Waste Service income</i>	(\$7,432,508)	(\$1,333,558)	(\$8,766,066)	<i>Update – Waste Budget now finalised</i>
5	<i>Domestic Waste Recycling expenses</i>	\$2,358,840	(\$166,788)	\$2,192,052	<i>Update – Waste Budget now finalised</i>
5	<i>Domestic Waste Recycling income</i>	(\$2,358,840)	\$166,788	(\$2,192,052)	<i>Update – Waste Budget now finalised</i>
5	<i>Domestic Waste Management expenses</i>	\$2,137,178	\$26,166	\$2,163,344	<i>Update – Waste Budget now finalised</i>
5	<i>Domestic Waste Management income</i>	(\$2,137,178)	(\$26,166)	(\$2,163,344)	<i>Update – Waste Budget now finalised</i>
5	<i>Non-Domestic Waste Management expenses</i>	\$5,564,202	\$208,797	\$5,772,999	<i>Update – Waste Budget now finalised</i>
5	<i>Non-Domestic Waste Management income</i>	(\$5,564,202)	(\$208,797)	(\$5,772,999)	<i>Update – Waste Budget now finalised</i>
6	<i>Natural Resource Management</i>	\$703,126	\$109,223	\$812,349	<i>Inter department transfer</i>

Item	Description	Original	Adjustment	Revised	Comment
6	<i>Development Assessment</i>	\$2,400,681	(\$109,223)	\$2,291,458	<i>Inter department transfer</i>

- Fees and Charges 2012/2013 Revenue Policy Part C**

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
34	<i>Complying Development Certificate Fees</i>	<i>(1) Building costs not exceeding \$250,000</i>			<i>\$200.00 minimum plus \$2.55 per \$1,000 up to \$250,000 building cost (Description change)</i>
37	<i>Construction Certificate Fees (Building) Part 4A EP and A Act</i>	<i>Not Exceeding \$10,000</i>			<i>\$200.00 + 0.60% of cost (Description change)</i>
	<i>Construction Certificate Fees (Building) Part 4A EP and A Act</i>	<i>Exceeding \$10,000</i>			<i>\$200.00 + 0.60% for first \$10,000 plus 0.15% of the amount in excess of \$10,000 (Description change)</i>
45	<i>Plumbing and Drainage Compliance Certificate</i>		<i>\$127.00 + \$16.00 per additional occupancy</i>	<i>\$127.00 + \$16.00 per additional occupancy</i>	<i>Creation of a separate fee applicable to both Council and Private Certifiers</i>
111	<i>Richmond Tweed Regional Library</i>	<i>Visitor's Membership Fee</i>	<i>\$37.80</i>	<i>\$36.00</i>	<i>Fees determined by Lismore City Council after Tweed Shire Council exhibition date</i>
	<i>Richmond Tweed Regional Library</i>	<i>Reservations on Richmond Tweed Regional Library Items</i>	<i>\$2.10</i>	<i>\$2.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Inter-Library Loans (Items not held by Richmond-Tweed)</i>	<i>\$4.20</i>	<i>\$4.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Fast Track Inter-Library Loans</i>	<i>\$13.90</i>	<i>\$17.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Kit Bags (If a Kit is returned without its bag)</i>	<i>\$2.30</i>	<i>\$2.20</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Processing Fee for Lost Items (not including Periodicals)</i>	<i>\$8.10</i>	<i>\$7.70</i>	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	<i>Richmond Tweed Regional Library</i>	<i>Replacement of Lost or Badly Damaged Borrower's Card</i>	<i>\$2.30</i>	<i>\$2.20</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Replacement of a Lost or Badly Damaged Barcode</i>	<i>\$2.30</i>	<i>\$2.20</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Copies from Photocopier A4</i>	<i>\$0.20</i>	<i>\$0.20</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Printouts from PCs - Colour Graphics/ Pictures</i>	<i>\$1.20</i>	<i>\$1.10</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Photo Quality Prints</i>	<i>\$3.60</i>	<i>\$3.40</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Genealogy Bibliography</i>	<i>\$5.90</i>	<i>\$5.65</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Communication Information Directories - per Local Government Area (hard copy)</i>	<i>\$35.70</i>	<i>\$34.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Communication Information Directories - per Local Government Area (on disk)</i>	<i>\$23.10</i>	<i>\$22.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Communication Information Directories - per section up to 25 organisations</i>	<i>\$2.30</i>	<i>\$2.20</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Butts and Certificates of the First Publicans Licences 1930-1960 (hard copy)</i>	<i>\$40.40</i>	<i>\$38.50</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Butts and Certificates of the First Publicans Licences 1930-1960 (on disk)</i>	<i>\$23.10</i>	<i>\$22.00</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Index to Certificates of Depasturing Licences 1837-1860 (hard copy)</i>	<i>\$40.40</i>	<i>\$38.50</i>	
	<i>Richmond Tweed Regional Library</i>	<i>Index to Registers of Land Grants - Leases and Purchases 1820-1856 (hard copy)</i>	<i>\$47.60</i>	<i>\$45.30</i>	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	<i>Richmond Tweed Regional Library</i>	<i>Index to Registers of Land Grants - Leases and Purchases 1792-1865 (hard copy)</i>	\$53.60	\$51.00	
	<i>Richmond Tweed Regional Library</i>	<i>Family History Research Gazetteer (hard copy)</i>	\$40.40	\$38.50	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star Vol. 1 1876-1884 (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star Vol. 2 1885-1889 (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star Vol. 3 1889-1892 (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star Vol. 4 1893-1896 (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star Vol. 5 1897-1899 (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to the Northern Star 1900-1902 (on disc)</i>	\$11.90	\$11.30	
	<i>Richmond Tweed Regional Library</i>	<i>A Northern Star Index for the Family Historian 1920-1924 (hard copy)</i>	\$23.80	\$22.65	
	<i>Richmond Tweed Regional Library</i>	<i>An Index to The Clarence and Richmond Examiner (hard copy)</i>	\$47.60	\$45.30	
	<i>Richmond Tweed Regional Library</i>	<i>Place Names of the Tweed, Brunswick and Upper Richmond Region (booklet)</i>	\$5.90	\$5.65	
	<i>Richmond Tweed Regional Library</i>	<i>Sequels, Series and Sequences (hard copy)</i>	\$23.80	\$22.65	
	<i>Richmond Tweed Regional Library</i>	<i>USB Memory Sticks</i>	\$9.70	\$9.20	
	<i>Richmond Tweed Regional Library</i>	<i>Scanning (per page)</i>	\$2.40	\$2.25	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	<i>Richmond Tweed Regional Library</i>	<i>PC Use (per half hour) - Non-Members</i>	\$2.40	\$2.25	
	<i>Richmond Tweed Regional Library</i>	<i>PC Use (per half hour) - Reciprocal Visitors</i>	\$2.40	\$2.25	
	<i>Richmond Tweed Regional Library</i>	<i>Headphones (per set)</i>	\$2.20	\$2.05	
	<i>Richmond Tweed Regional Library</i>	<i>Fax Charges - sending personal faxes to anywhere (first page)</i>	\$4.70	\$4.50	
	<i>Richmond Tweed Regional Library</i>	<i>Fax Charges - sending personal faxes to anywhere (each page thereafter)</i>	\$1.20	\$1.10	
	<i>Richmond Tweed Regional Library</i>	<i>Fax Charges - receiving personal faxes (up to 6 pages)</i>	\$2.30	\$2.20	
	<i>Richmond Tweed Regional Library</i>	<i>Research Work (per hour - pro rata for lesser periods)</i>	\$99.80	\$95.00	
	<i>Richmond Tweed Regional Library</i>	<i>Promotional Sales - Library Bags (short and long handles)</i>	\$3.20	\$3.00	
	<i>Richmond Tweed Regional Library</i>	<i>Handling fees for the copying of photos from historical collection (plus charge by service provider)</i>	\$10.80	\$10.30	
	<i>Richmond Tweed Regional Library</i>	<i>Talking Book Replacements - Sound Library, Chivers Audio, BBC Audio (CDs)</i>	\$17.30	\$16.45	
	<i>Richmond Tweed Regional Library</i>	<i>Talking Book Replacements - Sounding, Isis, Magna Story Sound (CDs)</i>	\$19.60	\$18.70	
	<i>Richmond Tweed Regional Library</i>	<i>Talking Book Replacements - Bolinda Audio, Clipper Audio, Recorder Book (CDs)</i>	\$11.90	\$11.30	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
114	<i>Parks and Reserves</i>	<i>Refundable Deposit bond. Must be paid in cash or by bank cheque</i>		\$1063.00	
115	<i>Sports Grounds</i>	<i>Casual Sports Ground Hire (per day) coaching, training, tournaments (Excludes not for profit sports clubs/associations or schools within the Shire).</i>		\$90.00	<i>Replaces Casual Sports Ground Hire \$50 and Cricket social use of synthetic wicket per day \$95</i>

- Notes the issue of the Instrument by the Independent Pricing and Regulatory Tribunal (IPART) in accordance with Section 508A(1) and (9) of the Local Government Act 1993 for an amendment to the 2012/2013 approved variation to general income to 7.90%, which includes a component of 0.4% attributed to the Carbon Tax.

REPORT:

Draft Delivery Program 2011/2015 and Operational Plan 2012/2013

Seven submissions were received from community and business representatives within the Shire as part of Council's Community Engagement Strategy seeking community feedback on Council's proposed Delivery Program 2011/2015 and Operational Plan 2012/2013. Below is a summary of submissions received:

Arts Northern Rivers

- Requests a contribution by Tweed Shire Council of \$7,840 per annum over three years as part of a joint funding arrangement between Clarence, Lismore, Byron, Kyogle, Ballina and Richmond councils totalling \$119,520. The purpose of the funding is to employ a Creative Industries Manager. A Creative Industries Manager's role will be to establish sustainable and long-term creative industries development programs, resources and infrastructures to the benefit of the Far North Coast of New South Wales.

Officer Comment: Funding for this program would require a reduction in another program area. At this stage it is not considered a priority but would require consideration in future budgets.

Banora Point & District Residents Association Inc

- Suggested a more 'user-friendly' format of the Delivery Program be adopted which allows the community to clearly identify specific projects and costing.

Officer Comment: The current format of the Delivery Program was implemented during the 2011/2012 period and has been acknowledged by the Division of Local Government as meeting all the requirements of the required legislation. Included within the 2012/2013 Budget will be an analysis of the major projects to be undertaken.

- Stated funding for stage 2 of the Kirkwood Road project is essential to ease road congestion in Tweed South to ensure the survival of 800 small businesses in the area.

Officer Comment: No funding available at this time. State and federal members have been requested to seek funding for this project. Council is also seeking reclassification of the road to a "State Road" so that funding becomes the responsibility of the NSW Government.

- Suggests a less elaborate plan for parkland at the corner of Amaroo Drive and Darlington Drive Banora Point be adopted instead of the current \$500,000 funded concept plan.

Officer Comment: Plans for this park are not finalised. Additional detailed planning for this park will take place once designs for other higher priority parks for example Wilson Park and the Chinderah Foreshore is completed.

- Issues with West Banora Point drainage system. The Association has highlighted that the drainage system is overrun by noxious weeds and debris which is seriously affecting resident's amenities. Residents should not be expected to put up with a problem caused by Council's failure to adequately fund regular maintenance of the drainage system. The association suggests that Council adopt a proposed solution by

Far North Coast Weeds to flush canals with salt water. This solution requires a barrier to prevent salt water compromising the golf course moat.

Officer Comment: Salt infusion into the Western Drainage Scheme is not possible because of an agreement explicitly ruling out this option between Council and Twin Town Services Club. This agreement was required to enable Council to obtain stormwater discharge rights over the Twin Towns Golf Course moat. The moat is an integral part of the Eastern/Western Drainage Schemes.

- Stated a need for a strategic plan for Banora Point as this locality has the largest population in the Shire.

Officer Comment: The current Banora Point West / Tweed Heads South Development Control Plan (DCP), Section B3, commenced in 2003 and has guided development of the area since this time. More recent approaches to "locality planning" incorporate, broadly, an analysis of the existing character, the role of the locality within the shire/region and planning for future growth and involve a higher level of community engagement. Locality plans are generally prioritised for areas subject to development pressure or growth.

Locality planning for this area is not considered a priority at this stage as the Banora Point / South Tweed area is now largely developed with limited land available. In addition, any consolidation and infill development is limited by both flooding and Australian noise exposure forecast (ANEF) constraints.

Council considered a report and adopted the Planning Reform Unit's work program for 2012/2015 at the Meeting of 15 May 2012. A locality plan for the Banora Point area is not currently programmed or resourced within the adopted 2012/2015 work plan. It is noted, however, that the planning proposal for "Club Banora" is programmed for the coming year. Whilst this planning proposal will be confined to the site of Club Banora, this project will provide the opportunity to look at future development of this site in the context of the surrounding locality.

- Requested an equitable distribution of funds allocated to amenities and facilities throughout the Shire.

Officer Comment: The 2011/2015 Delivery Program, Civic Leadership objective 1.22 states 'that decisions made in relating to the allocation of priorities will be in the long-term interests of the community' and at 1.23 'financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired level of service'. Council is currently working to meet these objectives and in doing so will ensure the equitable allocation of funds throughout the shire to meet the community's needs.

Caldera Environment Centre Inc

- The Delivery and Operational Plan is difficult to interpret with redundant numbering and disconnected goals, mission statements, etc. The Budget is difficult to understand.
- Reference to sustainability in 1.1.1 be changed to explicit mention of 'Ecological Sustainability'
- Reference to the Shires population carrying capacity is welcomed. This should be a priority project and a first step in understanding water needs for future communities.
- Confusing targets for riverbank revegetation does not make it clear if 3000 metres or 9000 metres of revegetation will be carried out.

Officer Comment: Comments regarding the Delivery and Operational Plan are noted, but the current format of the Delivery Program was implemented during the 2011/2012 period and has been acknowledged by the Division of Local Government as meeting all the requirements of the required legislation. The specific reference to the numbering convention is also noted, but is proposed to be retained in the current format. Strategy 1.1.1 states: establish sustainability as a basis of shire planning and Council's own business operations, and is applicable to all of the functions and not just restricted to ecological matters. Activities 4.1.2.5.1, 4.1.2.5.2 and 4.1.2.5.3 specifically relate to the 3000 metres of riverbank that council controls under best practice management.

Summary of requests from the co-ordinator:

- Greater funding for bushland maintenance and riparian repair on lands owned or managed by Tweed Shire Council.
- Reduce road funding, reduce speeds to 80km and adopt sustainable roadside vegetation controls.
- Greater funding for riverbank rehabilitation and less on boutique projects in the Shire.
- Greater funding to enhance flora species indigenous to the Shire.
- Manage and maintain stormwater drainage, bushland maintenance and other more pressing environmental issues before funding boutique projects in the Shire.
- Responsible stewardship of bushland in particular south of Bogangar is essential.
- Kingscliff foreshore project should provide a perfect project lesson for sustainable Dunecare and foreshore maintenance along the Tweed Coast.
- Reduce the standard of sporting venues.

Summary of overall requests:

- Catchment Nursery and Biodiversity projects are positive initiatives.
- Need for a greater natural resource management input into development proposals.
- Strategies for restoration littoral rainforest are in conflict with a proposed caravan park development at Cabarita.
- Sustainable agriculture of native plantings along cane drains is most welcomed.
- River Heath Grants and other bushland and biodiversity grants are exemplary, in addition to creating local employment; expansion of these programs would be advantageous.
- Budd Park could be repaired more sustainably similar to other naturally regenerated sites upstream with the money put to better use in other bushland regeneration projects.
- The environment and environmental projects should receive greater funding with the benefits of an enhanced environment and employment of local jobs.
- The Caldera Environmental Centre advocates the transition of seldom used parks like Max Boyd Park or the Public Reserve near Bray Park to a more natural state similar to Bruce Chick Park and revegetation of Lavender Creek Murwillumbah. Money spent on lawn maintenance should be put into natural revegetation of parklands with natural ground covers.

Officer Comment: Council has steadily increased funding for bushland maintenance of Council owned land over the last few years, commencing with the Seven Year Infrastructure and Services Plan funding the employment of a Bushland Officer and Lot 500 budget (coastal bushland). The Bush Futures Project has provided for development of management plans for most of Council's urban and peri-urban bushland. In addition, grant funds are being

sought to supplement Council budgets. A roadside vegetation management plan is in preparation. Current NRM projects are to be maintained and expanded as and when budgets and grant funds are available.

Coastline Building Certification Group

- The submission alleges a non-competitive nature of Council's fees and charges specifically in relation to the non-inclusion of plumbing and drainage inspection fees when Council is the Principle Certifying Authority for building projects.

Officer Comment: The 2012/2013 Fees and Charges have been amended to remove "Plumbing and Drainage Compliance Certificate where Council not principal certifier" this item is now numbered 45 with existing numbers indexed by 1. The new item will be titled Plumbing & Drainage Compliance Certificate together with all references to Council not being the principal certifier being removed.

Kingscliff & District Chamber of Commerce

- Requested a review of outdoor dining licences. Currently businesses in Kingscliff are paying 20% more to obtain an outdoor dining licence than other localities in the Shire. The current downturn in economic conditions requires Council to seriously consider a flat rate on outdoor dining licences to assist struggling business owners. In addition, the Chamber recommends that a policy to implement outdoor dining fees be reviewed on a five year cycle, capped for two years with increases on subsequent three years calculated on consumer price index increases.

Officer Comment: Amendments to Council's fees and charges is a relevant matter for Council to consider. Outdoor dining fee charges for 2012/2013 are subject to a proposed Notice of Motion for consideration at the June Council Meeting.

Murwillumbah Ratepayers and Residents Association Inc

- Suggested the format of the Draft Plans should be simplified so the community can identify what has been achieved and where monies are spent for example the Tweed LEP Review is at 25% what does this mean?

Officer Comment: The current format of the Delivery Program was implemented during the 2011/2012 period and has been acknowledged by the Division of Local Government as meeting all the requirements of the required legislation. Included within the 2012/2013 Budget will be an analysis of the major projects to be undertaken. Quarterly reviews of the key performance indicators and targets are reported to the Council and community, which are available through Council's website.

- The Association encourages preferred population and carrying capacity addressed for the future of the Tweed.

Officer Comment: This is included in "Objection 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economically viable agricultural land" and "Strategy 1.5.1 Sustainable management of the population in accordance with strategic decisions of previous councils, the NSW and Commonwealth Governments and the Far North Coast Regional Strategy, including provision of amenities, infrastructure and services". The application of both the Objective and Strategy are dependent upon decisions taken in regards to the NSW State Plan and the North Coast Regional Strategy.

- Questioned the closed-circuit television ('CCTV') project in Murwillumbah and requests a status on the projects effectiveness.

Officer Comment: The Murwillumbah CCTV has been in operation for three years. Since its inception it has provided footage to the NSW Police on over fifty occasions at their request. The number of requests is reported in the quarterly performance reporting to Council and the Division of Local Government.

- An upgrade of Knox Park, the playground and Skate Park is requested.
- The Association thanks Council for the assistance with the BMX Track in William Street.

Officer Comment: Council officers are currently developing a Knox Park Master Plan. In 2007 an extensive community consultation process was undertaken for the development of a Knox Park Strategic Plan. Unfortunately the Plan was not completed at this time. The intention of Council is to review the comprehensive information obtained during the consultation process as an initial stage of the master planning process. Council staff from a number of areas including Youth Development, Aged and Disability and Community Services are also reviewing previous community feedback and supplying input into the draft master plan which is being developed by Council's Landscape Architect.

As this master planning process does not have allocated funding, it is being undertaken in parallel with a myriad of other projects and therefore it is not anticipated that a draft plan will be completed before the end of the year. It should be noted that the intent of this process is to develop a master plan from which upgrades or amendments may be undertaken as funding is available and to facilitate applications when funding opportunities arise. An allocation of \$250,000 in the 2012/2013 budget sourced from the Seven Year Infrastructure and Services Plan is to be expended on the replacement of the play equipment and other associated works in Knox Park.

- Clarrie Hall Dam water supply issues must be a priority in the Tweed. The Association recommends the introduction of a Community Working Group to have input into this issue.

Officer Comment: A working group was formed in 2010 which recommended the raising of Clarrie Hall Dam as a future water source for the Shire. Council is still to determine the necessary course of action.

- Item 2.3.2.7.19 Park Avenue Murwillumbah upgrade should be commenced as soon as possible because this road is a major connector between North Arm, Byangum Road to Kyogle Road.

Officer Comment: The upgrade of Park Avenue Murwillumbah is to be considered in the five year infrastructure program.

- Item 2.3.2.7.21 Hospital Hill rehabilitation the Association has requested information about this project as to whether the rehabilitation is for park or facilities, vegetation, footpaths or the lookout.

Officer Comment: *The Hospital Hill reservoir works includes recoating of the existing steel reservoir and replacement of reservoir access stairs. The project does not include upgrade of the park or vegetation.*

- Item 2.3.6.1.2 Regional Museum at Murwillumbah project should be progressed with the Association displeased with the altered results of the exhibition. The Association questioned if grants and time schedules align and the impact of the Seven Year Plan on the project.

Officer Comment: *The Museum Advisory Committee has supported the current development program with construction envisaged to commence in the 2012/2013 financial year.*

- Item 2.3.6.4.4 Asked why the Jim Devine Club House refurbishment project being on hold was this not mentioned in the Draft Plans.

Officer Comment: *This project is not on hold. Council was required to respond to the NSW Government Building Professions Board- Disability (Access to Premises – Building) Standards 2010 and Considerations under Part 4.1 relating to unjustifiable hardship. In summary, the Board required Council to demonstrate why a lift was not necessary or possible to be installed in the building. This required an application for 'unjustifiable hardship' which took a significant amount of correspondence with the Board to reach an agreement. The project is currently being evaluated by Councils Contracts Unit and is progressing.*

- Item 2.4.2.4.1 Long Term Public Transport Strategy at 33% complete. The Transport Strategy states that rail issues will not be addressed until 2030 but the Shires of Kyogle and Byron are pushing for re-opening of the rail line for passenger transport between Casino and Murwillumbah and onto the Gold Coast Airport. In addition re-opening of the rail line was made clear at the Regional Transport Forum in Lismore in March 2012. Clearly tourism, economic and employment opportunities would benefit from a rail link. The closure of the rail line and realignment of the Pacific Highway has negatively impacted Murwillumbah.

Officer Comment: *Re-opening the Murwillumbah to Casino Road link will be extremely expensive and will not address the Tweed's pressing transport needs. Tweed Shire residents overwhelmingly travel within Tweed and between Tweed and South East Queensland/Gold Coast. Travel to Casino is largely irrelevant in the totality of the Tweed's public transport needs.*

- Item 3.3.1.1.1 Local Growth Management Plan - seeking more public information about this Plan.

Officer Comment: *Council considered a report and adopted the Planning Reform Unit's work program for 2012/2015 at the Meeting of 15 May 2012. This report outlined the reallocation of components of the planning reform budget from projects which may be undertaken in-house to a number of priority projects waiting resourcing. The Tweed Local Growth Management Strategy (LGMS) is one of these priority projects. The LGMS is now resourced to commence in the 2012/2013 financial year. It is anticipated to be undertaken in components over approximately two years.*

The LGMS is greater than the sum of its many parts and will bring together a holistic approach to managing, forecasting and guiding both the growth and conservation of the Tweed. The LGMS brings together a framework and strategic policies for land use, infrastructure, social, economic, and environmental planning into a single legible strategy. The LGMS is both informed by and informs the State and Regional Planning policy as well as the Tweed Local Environmental Plan and locality planning.

It is anticipated that once the project commences information will be made available on Council's website, providing consultation opportunities and ongoing project information.

- Item 3.4.2.1.1 Section 94 Plans - the Association questioned if existing ratepayers are being disadvantaged and if inequity exists within provisions of the Plans.

Officer Comment: Section 94 of the Environmental Planning and Assessment Act enables Council to collect financial and in kind contributions from developers for the provision of key community infrastructure such as open space and community facilities. Section 94 Plans must demonstrate a nexus between the infrastructure to be provided and population who will benefit. In other words a Section 94 Plan can only collect contributions from development for the provision of key community infrastructure required as a result of that development. Section 94 funds cannot be used to fund existing infrastructure shortfall or provide the total budget for new facilities in an existing area such as Murwillumbah.

For any proposed new Section 94 works in an existing area, a proportion of funding must be found from other sources so that neither the existing population nor the new population are burdened by being required to contribute a disproportionate amount. Although the amount of new development in Murwillumbah is lower than other areas in Tweed Shire, funds from Council's Shirewide plans have nevertheless been allocated in Murwillumbah, for example:

- *CP 5 (Local Open Space) funded new sportsfields lights at Queens Park, Murwillumbah*
 - *CP 5 (Local Open Space) will also be contributing to the refurbishment of the Jim Devine (soccer) building and the Knox Park netball building.*
 - *CP26 (Regional Open Space) contributed approx \$600,000 to the newly constructed regional hockey facility.*
- Item 4.1.2.2.1 Compliance issues review. The Association requests a level of security for the community to know there is a certain future dictated by rules and that rules will be adhered to.

Officer Comment: All Councils are required to prepare statutory Local Environmental Plans ('LEP's') and Development Control Plans ('DCP's') together with supporting non-statutory planning controls to guide new development. The NSW Environmental Planning and Assessment Act requires Council to take into account these controls, as well as any other relevant State and Federal legislation, and general planning "heads of consideration" in determining the merits of development applications. It is impossible to plan for the particular site characteristics of each individual land parcel, and therefore new planning controls such as maximum height and floor space ratio are generally developed in broad blocks and precincts. The current legislation does not allow Councils to be totally rigid in the implementation of these controls, and LEPs and DCPs allow for variations to these standards, if an applicant provides sufficient justification. Any attempt by Council to be too inflexible in their assessment can lead to costly litigation in the NSW Land and Environment Court. For the greater part of Council's Development Applications, the prevailing controls

are adhered to, but it is reasonable to expect that variations to the controls will be applied in well justified circumstances.

- Item 4.1.3.4.1 Pollution incidents investigated 100%. The Association requests that the number of prosecutions be reported and their magnitude.

Officer Comment: Four penalty infringement notices issued with two prevention notices issued during the last financial year.

- Item 4.1.3.9 Maintaining water ways infrastructure - questioned where Commercial Road Murwillumbah boat ramp is, and raised an issue of loss of picnic facilities and rubbish bins? Requested to be informed where the funds that were to be dedicated to the Condong Boat Ramp which has been removed from the 7 Year Pan have been reallocated to.

Officer Comment: In regard to the Commercial Road boat ramp Council has a rolling program of boat ramp repairs dependant on project priority. This boat ramp is not on the proposed works for 2012/2013 and will be considered against other waterways infrastructure projects in future years. In the 2011/2012 budget there was no expenditure allocated for the Condong Boat Ramp. A Section 94 Plan is required to be created to raise the funds but this was never completed due to there being no nexus that could be made between upcoming developments and the proposed project. The Tweed River Committee has classified that the Condong Boat Ramp facility is not a priority project.

- Seven Year Infrastructure and Services Plan has undergone many changes since inception can the community be informed as what has been 'tossed', where money was diverted to over the life of this Plan. As ratepayers have funded this Plan through huge rates increases a ratepayer will want to know where the funds were distributed, the success of the Plan, how the Plan has changed over its life and the way forward for future improvements.

Officer Comment: The amount of funds expended on the Seven Year Infrastructure and Services Plan; Council adopted changes to the original Seven Year Infrastructure and Services Plan is located on Council Internet site - www.tweed.nsw.gov.au. There are two ways to navigate to the appropriate information:-

- 1) Select 'Your Council' from the top menu bar, then select '7 Year Plan' OR
- 2) Select 'On Exhibition' from the left hand title bar, and then select '7 Year Plan'.

The information on funds expended - 'Progress Reports' - and the information on changes to the plan - 'Update Reports' are located in the left hand title bar.

Salt Surf Life Saving Club

- Request for funding assistance of \$8000 over two years to help fund operational costs during the construction phase of a new club house. The Surf Life Saving Club has extensive ongoing running costs and is seeking assistance to provide better facilities for the Clubs members.

Officer Comment: Council provides an annual allocation of \$3,409 to each Surf Club as a grant which can be claimed by each Surf Club against operational expenditure. Council does not fund the operational costs of Surf Clubs. This is not regarded as a role of Council and it would be inequitable to provide to one club and not the other three clubs. Contribution

Plan 16 provides for Surf Life Saving Club ('SLSC') capital works with an allocation of \$100,000 to Salt SLSC.

Tweed Chamber of Commerce and Industry Incorporated

- The Chamber requests \$40,000 in funds are allocated to the promotion of four key annualised events via banners placed on Essential Energy poles to align with the Supporting Community Life operational activity 'develop events strategy'. Examples of events include the Murwillumbah Show, Tweed Banana Festival, Battle of the Border bike race, UkiTopia Festival, Greenback Fishing Classic or Cooly Rocks on. The Chamber successfully carried a banner promotion on 'season's greetings' during 2011/2012.

Officer Comment: *There has been no expenditure provided in the 2012/2013 Budget for promotional banners. If Council wishes to proceed with this project an additional \$40,000 will need to be allocated to the Economic Development and Tourism Promotion Program.*

- Strengthening the Economy operational plan 'identifying infrastructure improvements...' supported by key actions 'to support infrastructure improvement that benefit the Tweed economy'. The Chamber proposes that land owners of lots 2, 3 and 130 Enterprise Avenue Tweed South fund and carry out construction of a temporary northbound on and off ramp via Enterprise Avenue Tweed Heads South connecting to the Pacific Highway. Cost to land owners is offset by future Tweed Shire Council contributions and levies payable on future development of the site. The Chamber is concerned the current Kirkwood Road east project provides no northbound access to the Pacific Highway. Local road networks west of the highway are incapable of handling traffic volume in peak times as the traffic has no easy access to the highway. Heavy vehicles servicing the industrial centre in Tweed South add to traffic congestion. The Chamber believes the Enterprise Avenue proposal is an immediate and cost effective solution to local traffic problems west of the Pacific Highway until the Kirkwood Road West project is fully funded.

Officer Comment: *This is a matter for the NSW Roads and Maritime Services (RMS) who are responsible for the Pacific Highway. The proposed connection may cause future safety issues and congestion on the Pacific Highway. These issues need to be addressed by detailed investigation and modelling to determine if the connection is feasible, before it can be supported.*

- Requests that Council investigate the feasibility of establishing satellite offices in coastal areas using information technology to support a decentralised mobile service for the community. It is recommended west Bay Street Tweed Heads be the location for the satellite office.

Officer Comment: *Council presently has a satellite office at the Tweed Heads Civic Centre in Brett St, Tweed Heads. This office functions as a Contact Centre servicing the public and providing a range of face to face customer service interactions with citizens. Additionally, the Revenue and Recovery Unit were relocated to Tweed Heads Civic Centre 12 months ago, which has increased the number of staff located in the Tweed Heads CBD by 12. Other departments working at Tweed Heads also include Community Options (COPS), the Tweed Laboratory, Tweed Aquatic Staff, Tweed Water staff at Banora Point Sewerage Treatment Plant and the Tweed Heads Depot staff. In total, this comprises in excess of 100 staff working in the Tweed Heads CBD and immediate surrounds.*

The use of technology is being utilised to provide additional services online, in particular to appeal to Gen Y and to meet the needs of citizens outside of standard business hours as increasingly citizens are seeking access to Council services and information in real time away from the traditional face to face means. Examples of new services provided utilising advancements in technology include the MasterView DA Tracker, participation in the Electronic Housing Code and the Smart Phone/Device enabled Tweed MyAnswers app available from m.tweed.nsw.gov.au or by accessing the following QR Code



- Two initiatives for the short and medium term improvements of Bay Street Tweed Heads were raised;
 1. Redevelopment of the fenced corner block to improve the amenities of the street. Through land owners assistance remove the fence and grass the area to provide more 'street appeal' and
 2. Council should consider reduced fees or an offset on charges to encourage new businesses to locate into Bay Street. Although goals in Supporting the Economy advocate expanding employment, tourism and education opportunities no incentives are in place to encourage and attract business. Research suggests the cost of doing business is cheaper over the border.

Officer Comment: These two issues were addressed in a meeting of the Tweed Chamber with Councillors and Council staff held on 28 May 2012.

At that meeting the officers undertook to make further contact with the owners of the Ultima development site to seek a tidier appearance of the undeveloped portion of the site.

In terms of the strategies to attract new businesses to Bay Street, the officers advised the Chamber representatives at the meeting of the need to look at this issue holistically, and also to acknowledge that this precinct has already been provided with substantial development incentives through the Draft Tweed City Centre Vision, Local Environmental Plan and Development Control Plan, adopted by Council in December last year. The General Manager requested if he could be allowed more time to examine this issue, and undertook to meet further with the Chamber representatives to develop some suitable initiatives.

- Council should consider an immediate freeze on all business rates with no increase for the next five years. Increasing costs is an ongoing strain on businesses and Council should consider incentives to attract and keep businesses.

Officer Comment: Council is able to rate to a set notional yield each financial year. The elected Council is then able to determine the rating mix between Residential, Business and Farmland. If the business rate were to be frozen for a period of five years, it would move the additional rate burden to those residential and farmland rate payers on the ad valorem rate. Approximately 49% of rate payers are currently on the minimum rate. Therefore 51% of ratepayers would bear the burden of freezing business rates for five years. It is also important to note that approximately 21% of Council's rate payers are pensioners and if a

redistribution of the rating mix was applied, some of this sector would incur increases in their rates payable.

With respect to incentives for businesses, Council will be calling for expressions of interest from local businesses interested in offering vouchers to new residents to the Tweed. This will make new residents aware of local business and encourage repeat business.

Council is also advocating for a review of the responsibility for funding Tweed arterial roads which would significantly reduce any Tweed road contribution plan (TRCP) impediments faced by new businesses establishing in the Tweed.

- Markets in Jack Evans Boat Harbour should be comprised of a majority of local businesses and local produce. Council must support local businesses by giving them priority over other non-local businesses.

Officer Comment: Council invited applications through an expression of interest process for activities in Jack Evans Boat Harbour ('JEBH') including markets in August 2011. No submissions for markets were received in response to the Expression of Interest.

In recent weeks, the Tweed Chamber of Commerce has contacted Council proposing a collaborative proposal with Training and Further Education ('TAFE') for markets in JEBH and a private market organiser who has approached Council with a proposal for markets in JEBH. Another business owner from the Tweed Heads area has also indicated an intention to submit a separate proposal. When all proposals are received a report will be prepared for Council's consideration. Council may well lend weight to applications that support local businesses over non-local businesses.

- Requested greater investment by Council internally with an appropriate resource to complement Destination Tweed and focus on business attractions and investment.

Officer Comment: Destination Tweed is currently contracted by Council to Promote the Tweed for Business Investment. The performance of their promotional activities is reported to Council on a quarterly basis. There has been no increase in the 2012/2013 Operational Plan to accommodate internal resources to deliver additional support to promote the Tweed for Business. If Council wished to pursue this, additional funds would need to be allocated to the Economic Development and Tourism Promotion Program.

It is noted that there is a Notice of Motion to be considered at the June Council Meeting, proposing an allocation of an additional amount of \$100,000 to economic development, via a reallocation of funds from the road budget.

Tyalgum District Community Association Inc

- Acknowledged Council's works and general maintenance in the Shire given instances of adverse weather conditions.
- Concern was expressed about the average rate payers' inability to interpret and assess aspects of Council's budget and flow-on issues about priorities, responsibilities and accountability. The submission stated that residents cannot judge the effectiveness and efficiency of Council operations especially in an election year.
- Suggested Council should advise the Association on how they are able to get a better understanding of Council's reporting and acquittal systems.

Officer Comment: The current format of the Delivery Program was implemented during the 2011/2012 period and has been acknowledged by the Division of Local Government as meeting all the requirements of the required legislation. Included within the 2012/2013 Budget will be an analysis of the major projects to be undertaken. Council staff have held a discussion with representatives of the association to clarify the reporting framework.

A more descriptive representation of the terms "Project" and "Service" have been included in the Delivery Program:

"Project" is an activity of Council which has a specific start and finish date.

"Service" is an activity of Council which has no definite finish date; instead the activity is ongoing from year to year.

Round Table Community Sessions

Council held as part of the Community Engagement Strategy three separate community 'round table' discussion sessions with community members, community groups and business representatives during May. The purpose of the round table sessions was to gather community input into Council's annual review of the Delivery Program 2011/2015 and creation of the Operational Plan 2012/2013.

Sessions one and two were held on Thursday 10 May 2012, while session three was held on Monday 21 May 2012. Below is a summary of discussions at each round table session.

Summary session one:

- Incentives to increase recycling, education on recycling including green waste recycling targeting business and individuals to reduce landfill waste.
- State Government road classifications effects funding available for internal road networks, recommended the Cross Border Commissioner be involved.
- Suggested a round table discussion between community groups, Chambers of Commerce and Council in relation to State Government road funding.
- Proposed entry fee to visit the Margaret Olley exhibition with funds used to promote the Tweed Shire as a whole.
- Clean up of Knox Park, Murwillumbah and poor condition of the Parks playground. Suggested the rotunda be demolished.
- Proposed river walk including pontoons and cycleway connecting South Murwillumbah with the Regional Art Gallery.
- Support for Town Plan for Kingscliff including traffic management strategies.
- Review of footpath dining licences for Kingscliff. The current fees were set some time ago and do not reflect current conditions are adding to the cost burden on businesses in the locality.
- Review of illegal signage in the Shire but caution in relation to A-frame signs as business are doing it tough therefore an alternative means of advertising must be considered.

Summary session two:

- Underspending on bushland maintenance as bushland is a valuable asset in the Shire. Introduction of a part-time Koala officer is positively acknowledged.

- Concern that Council was trying to do too much and spending on projects that were not considered core business.
- Questioned Council expenditure on cultural services when spending should be targeted at a five way intersection on Byangum Road Murwillumbah.
- Plan of Management for Knox Park to extend strategic planning beyond the CBD of Murwillumbah.
- Concerns with delays and lead up time on development with the introduction of assessment of Aboriginal heritage in development sites.
- Council should do more to show accountability and responsibility in implementing its Delivery Program and Operational Plan.
- Increased traffic concerns on Coast Road at Cudgen at traffic lights if Kingscliff Police station were to be relocated.
- Queried drainage expenditure in Blue Jay Circuit, West Kingscliff.
- Concerns on the viability of a proposed caravan park in the Cabarita foreshore.
- Continuing drainage problems in West Banora Point requiring funding.
- Funding for parkland at corner of Amaroo and Darlington Drives, Banora Point.
- Concerns no funding available to correct a five way intersection on Wharf Street Chinderah.
- Beautification of Chinderah foreshore.
- Funding for intersection of Bradshaw Place and Wommin Bay Drive, Chinderah together with the poor state of the road surf near this intersection.
- Local Environmental Plan for Chinderah sought.
- More cycleways and footpaths to attract tourists to the shire.

Summary session three:

- Proposal that businesses fund a northern interchange from Enterprise Avenue to the Pacific Highway to elevate traffic issues in Tweed South and encourage business development.
- The poor condition of Bay Street ,Tweed Heads does nothing to attract businesses to the area. The state of the road in Bay Street East sets a poor impression to visitors entering the Tweed Shire from the north.
- Proposed that Council freeze business land rates for five years to allow business to recover from the current uncertain economic climate.
- The role of Destination Tweed and the possibility that more could be done to attract business investment in the Tweed.
- Priority should be given to local business and produce in any planning for community markets.
- Council should consider a quarterly promotion of events in the shire in a similar manner as the Gold Coast City Council using colourful banners.
- Council is encouraged to do whatever it can to improve economic development in the Shire.

Draft Revenue Policy and Statement 2012/2013 Part A

The Carbon Tax and implications on Rate Pegging

As a result of an application made to the Independent Pricing and Regulatory Tribunal in accordance with Section 508A(9) of the *Local Government Act 1993* (NSW) for an amendment to the 2012/2013 approved variation to general income, for an increase of 0.4%, attributed to the Carbon Tax, in excess of the already approved increase of 7.50%, formal approval has been granted, which will result in the revised variation of 7.90%.

The Independent Pricing and Regulatory Tribunal issued Tweed Shire Council with a signed instrument under Section 508A(1) of the *Local Government Act 1993* (NSW). The instrument provides for a variation to clause 1 of the instrument issued to Council issued on 15 August 2007. This decision enables Council to bring its existing special variation into line with the way that the Independent Pricing and Regulatory Tribunal have set the rate peg for 2012/2013 and reflects the equitable treatment offered to all Councils. A copy of this instrument is attached to this report.

Interest Chargeable on Outstanding Rates and Charges

The Division of Local Government have advised for the period 1 July 2012 to 30 June 2013 the maximum rate of interest that Council can apply in respect of rates and charges that remain unpaid after they become due and payable is 10 percent per annum.

Land Cost Indexation

A review has been undertaken of the wording of the Land Cost Indexation (page 49) of the Draft Revenue Policy and Statement 2012/2013 Part A, and it is proposed that the wording of the second paragraph will be;

'Section 94 Plans contain clauses which allow for annual indexation of infrastructure contribution rates in accordance with the provisions of Regulation 32 of the *Environmental Planning and Assessment Act 2000* (NSW). On each 1 July any land purchase component of contribution rates in each Section 94 Plan will be adjusted with reference to the clause in the Plan and the Tweed Shire Council Land Cost Index and applied to outstanding developer contributions in accordance with consent conditions'.

Draft Budget 2012/2013 Part B

It is proposed to include an introduction within the 2012/2013 Budget papers that provides an overall snapshot of Council's budget.

Budget Summary

The 2012/2013 Budget expenditure amounts are as follows:

General Fund	\$113,416,702
Sewer Fund	\$35,347,729
Water Fund	\$35,441,790
Total	\$184,206,221

All of the above funds are budgeted for a balance result.

The following table presents a summary of the major changes effecting the 2012/2013 budget.

Item	Indexation	Approximate Effect on Budget
Employee costs	3.50%	\$1,600,000
Materials and Contracts	3.00%	\$2,500,000
Electricity costs - (excluding street lighting)	10.00%	\$400,000
Insurance	5.00%	\$120,000
General rates (excluding 7YP)	3.90%	\$1,400,000
Water Access Charges	8.47%	\$320,000
Sewer Access Charges	6.73%	\$1,300,000
General User Fees & Charges	5.00%	\$800,000
Water Volumetric Charges	10.81%	\$1,500,000

Other significant changes from 2011/2012:

Financial Assistance Grant -General	\$84,948
Art Gallery expenses	\$16,328
Other Property insurance	-\$11,763
Other Property council rates	-\$2,179
Public Liability Insurance	-\$41,200
Donations: Tweed Valley Wildlife Carers	\$5,150
Fire & Rescue NSW - Contribution	\$7,934
Rural Fire Service - Contribution	\$67,839
State Emergency Services - Contribution	-\$42,428
Contact Centre expenses	\$25,544
Building Control advertising	\$5,150
Development related fees	\$233,810
s94 admin levy	\$13,390
Baby Health Centres	-\$3,580
Design legal expenses	-\$22,020
Road closure expenses	-\$25,750
Election Expenses	\$35,000
Tweed Link income	\$30,000
Insurance Miscellaneous	-\$20,000

ELE Funding	\$400,000
Telephones	-\$30,000
Local Govt & Shires Association	\$10,000
Kingscliff Swimming Pool expenses	\$120,000
Kingscliff Swimming Pool income	-\$60,000
Joint Regional Planning Panel	\$5,000
s94 recoupment libraries loan repayments	\$145,318

Major Projects

Road Construction Capital Works	\$8,688,285
Banora Point Wastewater Treatment Plant Upgrade	\$4,000,000
Water Pump Stations and Mains	\$3,679,050
West Kingscliff Drainage	\$2,425,440
Clarrie Hall Dam Spillway	\$1,837,125
Coastline Management Plan	\$1,750,000
Burringbar Sewerage	\$1,644,659
Drainage Construction (excluding West Kingscliff)	\$1,590,400
Bridges	\$776,000
Kingscliff Amenities Hall (deferred from 11/12)	\$500,000
South Tweed Swimming Pool Heating system replacement	\$200,000
Tweed Regional Art Gallery Extension - Margaret Olley Centre	\$150,000
Murwillumbah SES shed repairs - from January 2012 landslip	\$100,000
Cemetery site development	\$50,000
Point Danger Lighthouse works	\$50,000
Koala Plan of Management	\$50,000
Murwillumbah Civic Centre Car park	\$30,000
Uki Tennis	\$25,000

7 Year Infrastructure and Services Plan

As part of the Draft Operational Plan and Budget process, a review of the final year of the 7 Year Infrastructure and Services Plan in relation to project costs and project timing has been undertaken with the following program changes made as a result of this review:

Project	Cost	Action	Comment
Museum Tweed Heads & Murwillumbah	\$4,000,000	Murwillumbah Museum under construction.	\$1,000,000 in grant funds transferred to Art Gallery Extension.
		Tweed Heads museum deferred indefinitely.	\$3,000,000 allocated to single storey extension and storage facility for Murwillumbah Museum.
Cudgen Creek Bridge	\$1,400,000	Defer to future years	A recent upgrade to the bridge deck has delayed the need for this work until future years.
			The funds associated with the loan repayments for this project have been set aside.
Amenities Hall Kingscliff	\$500,000	Deferred from 11/12 to 12/13	The Kingscliff Amenities Hall project has been deferred to the 2012/2013 budget as the concept and design plans are not yet finalised.

Note References to the 2011/2012 budget in this document refer to the revised budget after the March Quarterly Budget Review

	2011/2012	2012/2013	2013/14	2014/15	2015/16
Consolidated Summary	2011/2012	2012/2013	2013/14	2014/15	2015/16
	\$000	\$000	\$000	\$000	\$000
1. Income Statement	(4,658)	8,957	(208)	9	(3,235)
101 Operating Expenses	101,866	108,147	106,050	109,315	113,375
102 Interest Expense	13,305	13,587	13,702	13,378	13,112
103 Depreciation	38,142	39,644	41,082	42,289	43,478
104 Rates	(45,213)	(48,941)	(50,736)	(52,768)	(55,138)
105 Annual Charges	(32,692)	(35,643)	(37,884)	(40,161)	(43,027)
106 Interest Received	(8,484)	(6,069)	(5,661)	(4,995)	(5,279)
107 Fees & Charges	(34,835)	(37,884)	(40,471)	(43,114)	(46,213)
108 Grants Operating	(16,307)	(16,458)	(16,401)	(16,651)	(16,871)
109 Section 94/64	(12,683)	(5,528)	(6,749)	(6,626)	(6,472)
110 Grants Capital	(6,506)	(1,897)	(1,940)	(658)	(200)
111 Contributions Capital	(1,250)	0	(1,200)	0	0
2. Balance Sheet	88,398	46,757	58,526	43,038	42,657
213N Capital - New	35,362	15,205	22,689	17,419	14,482
213R Capital - Renew/Replace	18,574	18,801	18,993	19,729	23,408
213U Capital - Upgrade	31,980	7,949	11,645	771	781
214 Loan Redemption	6,436	7,094	7,606	7,663	7,544
215 Sale of Assets	(3,953)	(2,293)	(2,406)	(2,545)	(3,559)
3. Non-Cash	(38,142)	(39,644)	(41,082)	(42,289)	(43,478)
316 Depreciation Reversal	(38,142)	(39,644)	(41,082)	(42,289)	(43,478)
317 ABC	0	0	0	0	0
318 Internal Transfers	0	0	0	0	0
4. Restricted Funding	(45,599)	(16,071)	(17,236)	(757)	4,056
420 Trans from reserves	(32,246)	(14,841)	(20,610)	(19,317)	(18,566)
421 Sec 94/64 Recoupment	(30,194)	(13,520)	(23,551)	(13,967)	(12,272)
422 Sec 94/64 Reversal	12,683	5,528	6,749	6,626	6,472
423 Transfer to reserves	12,266	13,422	22,252	27,977	30,598
424 Loan funding	(8,106)	(6,660)	(2,076)	(2,076)	(2,176)
Expenditure	219,788	184,206	202,936	196,253	203,301
Income	219,788	184,206	202,936	196,252	203,301
General Fund Summary	2011/2012	2012/2013	2013/14	2014/15	2015/16
	\$000	\$000	\$000	\$000	\$000
1. Income Statement	(1,528)	10,826	9,136	10,613	10,777
101 Operating Expenses	79,363	82,836	82,999	85,954	88,909
102 Interest Expense	5,763	6,219	6,482	6,381	6,285
103 Depreciation	22,935	24,056	24,837	25,561	26,208
104 Rates	(45,213)	(48,941)	(50,736)	(52,768)	(55,138)
105 Annual Charges	(9,807)	(10,927)	(11,205)	(11,543)	(11,891)
106 Interest Received	(2,546)	(2,365)	(2,413)	(2,462)	(2,510)
107 Fees & Charges	(18,967)	(20,456)	(21,295)	(22,148)	(23,033)
108 Grants Operating	(15,401)	(15,526)	(15,441)	(15,662)	(15,852)
109 Section 94/64	(10,088)	(2,357)	(2,330)	(2,211)	(2,160)
110 Grants Capital	(6,315)	(1,713)	(1,763)	(490)	(40)
111 Contributions Capital	(1,250)	0	0	0	0
2. Balance Sheet	39,078	23,384	24,842	23,687	22,361
213N Capital - New	19,712	5,766	3,442	7,442	4,030
213R Capital - Renew/Replace	14,420	16,240	16,485	14,912	18,210
213U Capital - Upgrade	6,312	600	3,886	450	0
214 Loan Redemption	2,587	3,072	3,435	3,428	3,681
215 Sale of Assets	(3,953)	(2,293)	(2,406)	(2,545)	(3,559)

	2011/2012	2012/2013	2013/14	2014/15	2015/16
3. Non-Cash	(29,475)	(31,368)	(32,306)	(33,185)	(33,989)
316 Depreciation Reversal	(22,935)	(24,056)	(24,837)	(25,561)	(26,208)
317 ABC	(6,887)	(7,101)	(7,246)	(7,394)	(7,545)
318 Internal Transfers	346	(212)	(223)	(229)	(236)
4. Restricted Funding	(8,075)	(2,842)	(1,673)	(1,116)	851
420 Trans from reserves	(1,780)	(2,189)	(1,823)	(1,878)	(2,986)
421 Sec 94/64 Recoupment	(13,798)	(2,346)	(5,454)	(5,996)	(2,516)
422 Sec 94/64 Reversal	10,088	2,357	2,330	2,211	2,160
423 Transfer to reserves	5,522	5,996	5,350	6,623	6,370
424 Loan funding	(8,106)	(6,660)	(2,076)	(2,076)	(2,176)
Expenditure	127,138	113,417	114,611	117,566	119,702
Income	127,138	113,417	114,611	117,566	119,702

Sewer Fund Summary	2011/2012	2012/2013	2013/14	2014/15	2015/16
	\$000	\$000	\$000	\$000	\$000

1. Income Statement	(3,892)	(1,081)	(4,331)	(4,849)	(6,245)
101 Operating Expenses	11,356	13,572	11,889	12,427	13,001
102 Interest Expense	2,687	2,595	2,494	2,389	2,292
103 Depreciation	7,913	8,534	8,872	9,126	9,410
105 Annual Charges	(19,151)	(20,632)	(22,225)	(23,785)	(25,752)
106 Interest Received	(4,332)	(2,692)	(2,440)	(2,022)	(2,159)
107 Fees & Charges	(1,538)	(1,480)	(1,525)	(1,571)	(1,618)
108 Grants Operating	(442)	(455)	(468)	(482)	(497)
109 Section 94/64	(194)	(340)	(753)	(763)	(763)
110 Grants Capital	(191)	(184)	(176)	(168)	(160)
2. Balance Sheet	35,536	13,813	18,815	8,893	9,544
213N Capital - New	7,826	5,350	11,517	2,475	2,961
213R Capital - Renew/Replace	1,869	1,058	1,573	3,104	3,213
213U Capital - Upgrade	22,932	4,404	2,623	265	764
214 Loan Redemption	2,909	3,001	3,102	3,049	2,606
3. Non-Cash	(4,425)	(5,067)	(5,335)	(5,517)	(5,727)
316 Depreciation Reversal	(7,913)	(8,534)	(8,872)	(9,126)	(9,410)
317 ABC	3,384	3,360	3,428	3,496	3,566
318 Internal Transfers	104	107	110	113	117
4. Restricted Funding	(27,219)	(7,664)	(9,149)	1,473	2,428
420 Trans from reserves	(25,228)	(5,797)	(11,853)	(8,219)	(7,836)
421 Sec 94/64 Recoupment	(3,374)	(4,108)	(5,659)	(2,269)	(2,279)
422 Sec 94/64 Reversal	194	340	753	763	763
423 Transfer to reserves	1,188	1,901	7,611	11,198	11,780
Expenditure	54,255	35,348	44,347	38,516	40,300
Income	54,255	35,348	44,347	38,516	40,300

Water Fund Summary	2011/2012	2012/2013	2013/14	2014/15	2015/16
	\$000	\$000	\$000	\$000	\$000

1. Income Statement	213	(792)	(5,010)	(5,749)	(7,757)
101 Operating Expenses	10,599	11,735	11,164	10,940	11,475
102 Interest Expense	4,855	4,773	4,726	4,609	4,536
103 Depreciation	7,294	7,054	7,372	7,601	7,861
105 Annual Charges	(3,734)	(4,084)	(4,455)	(4,833)	(5,385)
106 Interest Received	(1,606)	(1,012)	(808)	(512)	(610)
107 Fees & Charges	(14,330)	(15,947)	(17,652)	(19,396)	(21,562)
108 Grants Operating	(464)	(478)	(492)	(507)	(522)
109 Section 94/64	(2,401)	(2,832)	(3,666)	(3,652)	(3,549)
111 Contributions Capital	0	0	(1,200)	0	0

	2011/2012	2012/2013	2013/14	2014/15	2015/16
2. Balance Sheet	13,777	9,560	14,869	10,457	10,752
213N Capital - New	7,816	4,090	7,730	7,502	7,491
213R Capital - Renew/Replace	2,285	1,504	935	1,713	1,986
213U Capital - Upgrade	2,736	2,946	5,135	56	17
214 Loan Redemption	940	1,021	1,068	1,185	1,258
3. Non-Cash	(3,686)	(3,204)	(3,444)	(3,593)	(3,772)
316 Depreciation Reversal	(7,294)	(7,054)	(7,372)	(7,601)	(7,861)
317 ABC	3,503	3,740	3,815	3,891	3,969
318 Internal Transfers	106	109	113	116	119
4. Restricted Funding	(10,304)	(5,564)	(6,414)	(1,114)	777
420 Trans from reserves	(5,238)	(6,855)	(6,934)	(9,220)	(7,744)
421 Sec 94/64 Recoupment	(13,022)	(7,065)	(12,438)	(5,702)	(7,477)
422 Sec 94/64 Reversal	2,401	2,832	3,666	3,652	3,549
423 Transfer to reserves	5,555	5,524	9,291	10,156	12,448
Expenditure	38,394	35,442	43,978	40,169	43,300
Income	38,394	35,442	43,978	40,169	43,300

The following amendments are proposed to the Draft Budget 2012/2013 Part B.

Item 1	The budget includes \$200,000 for the replacement of the pool heating system at South Tweed Heads and \$120,000 to address earth leakage issues at all pools. Item 1 below represents a change in the funding of the \$320,000.
Item 2	A new budget group titled 'Single Coastal Reserve' which represents crown land on the eastern side of the Tweed Coast Road has been created. Item 2 is the redistribution of budget expenditures from other budget groups to the new budget group as reported in the March 2012 Budget Review.
Item 3	The Kingscliff Amenities Hall project has been deferred to the 2012/2013 budget as the concept and design plans are not yet finalised. This was also reported in the March 2012 Budget Review.
Item 4	Council has received more accurate information in relation to the 2012/2013 Workers Compensation premium. Item 4 updates this item with the corresponding reduction in on-cost amounts.
Item 5	The Domestic and Non-domestic waste budget groups have been updated with more accurate estimates. There has been no net change to the budget.
Item 6	Item 6 updates a movement in employees between budget groups.

Item	Description	Original	Adjustment	Revised	Comment
1	Pools funding - internal transfer	(\$320,000)	\$320,000	\$0	Adjustment to funding – now funded from reserves and 7 Year Plan budgets
1	Pools funding - Reserves		(\$105,000)	(\$105,000)	Adjustment to funding – works carried forward from 2011/2012
1	Parks Asset renewal	\$375,312	(\$110,000)	\$265,312	Adjustment to funding – 7 Year Plan budget
1	Botanic Gardens recurring costs	\$75,000	(\$75,000)	\$0	Adjustment to funding – 7 Year Plan budget

Item	Description	Original	Adjustment	Revised	Comment
1	Botanic Gardens VIC recurring costs	\$30,000	(\$30,000)	\$0	Adjustment to funding – 7 Year Plan budget
2	Single Coastal Reserve - Rec Services	\$0	\$390,000	\$390,000	Reallocation of budget Funding – see March Budget Review
2	Tweed Coast parks	\$855,159	(\$140,000)	\$715,159	Reallocation of budget Funding – see March Budget Review
2	Electric barbecues	\$129,260	(\$45,000)	\$84,260	Reallocation of budget Funding – see March Budget Review
2	Public parks furniture	\$56,353	(\$20,000)	\$36,353	Reallocation of budget Funding – see March Budget Review
2	Asset management	\$189,952	(\$35,000)	\$154,952	Reallocation of budget Funding – see March Budget Review
2	Public toilets	\$771,398	(\$150,000)	\$621,398	Reallocation of budget Funding – see March Budget Review
3	Amenities Hall Kingscliff	\$0	\$500,000	\$500,000	Deferred from 11/12 – see March Budget Review
3	7YP loan funding	\$0	(\$500,000)	(\$500,000)	Deferred from 11/12 – see March Budget Review
4	Workers Comp Insurance	\$3,033,606	(\$2,255,210)	\$778,396	Correction to reflect reduced premium as advised by insurer
4	Workers Comp On Costs	\$(3,501,533)	\$2,255,210	(\$1,246,323)	Correction to reflect reduced premium as advised by insurer
5	Domestic Waste Service expenses	\$7,432,508	\$1,333,558	\$8,766,066	Update – Waste Budget now finalised
5	Domestic Waste Service income	(\$7,432,508)	(\$1,333,558)	(\$8,766,066)	Update – Waste Budget now finalised
5	Domestic Waste Recycling expenses	\$2,358,840	(\$166,788)	\$2,192,052	Update – Waste Budget now finalised
5	Domestic Waste Recycling income	(\$2,358,840)	\$166,788	\$(2,192,052)	Update – Waste Budget now finalised
5	Domestic Waste Management expenses	\$2,137,178	\$26,166	\$2,163,344	Update – Waste Budget now finalised
5	Domestic Waste Management income	(\$2,137,178)	(\$26,166)	(\$2,163,344)	Update – Waste Budget now finalised
5	Non-Domestic Waste Management expenses	\$5,564,202	\$208,797	\$5,772,999	Update – Waste Budget now finalised
5	Non-Domestic Waste Management income	(\$5,564,202)	(\$208,797)	(\$5,772,999)	Update – Waste Budget now finalised
6	Natural Resource Management	\$703,126	\$109,223	\$812,349	Inter department transfer
6	Development Assessment	\$2,400,681	(\$109,223)	\$2,291,458	Inter department transfer

These above amendments will also be subject to any Notices of Motions resolved at the June Council Meetings. It is proposed that all relevant documentation will be updated following the Council meeting and provided for reference on Council's Internet page.

Draft Fees and Charges 2012/2013 Revenue Policy Part C

The following amendments to the Draft Fees and Charges 2012/2013 Revenue Policy Part C are proposed;

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
34	Complying Development Certificate Fees	(1) Building costs not exceeding \$250,000			\$200.00 minimum plus \$2.55 per \$1,000 up to \$250,000 building cost (Description change)
37	Construction Certificate Fees (Building) Part 4A EP and A Act	Not Exceeding \$10,000			\$200.00 + 0.60% of cost (Description change)
	Construction Certificate Fees (Building) Part 4A EP and A Act	Exceeding \$10,000			\$200.00 + 0.60% for first \$10,000 plus 0.15% of the amount in excess of \$10,000 (Description change)
45	Plumbing and Drainage Compliance Certificate		\$127.00 + \$16.00 per additional occupancy	\$127.00 + \$16.00 per additional occupancy	Creation of a separate fee applicable to both Council and Private Certifiers
111	Richmond Tweed Regional Library	Visitor's Membership Fee	\$37.80	\$36.00	Fees determined by Lismore City Council after Tweed Shire Council exhibition date
	Richmond Tweed Regional Library	Reservations on Richmond Tweed Regional Library Items	\$2.10	\$2.00	
	Richmond Tweed Regional Library	Inter-Library Loans (Items not held by Richmond-Tweed)	\$4.20	\$4.00	
	Richmond Tweed Regional Library	Fast Track Inter-Library Loans	\$13.90	\$17.00	
	Richmond Tweed Regional Library	Kit Bags (If a Kit is returned without its bag)	\$2.30	\$2.20	
	Richmond Tweed Regional Library	Processing Fee for Lost Items (not including Periodicals)	\$8.10	\$7.70	
	Richmond Tweed Regional Library	Replacement of Lost or Badly Damaged Borrower's Card	\$2.30	\$2.20	
	Richmond Tweed Regional Library	Replacement of a Lost or Badly Damaged Barcode	\$2.30	\$2.20	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	Richmond Tweed Regional Library	Copies from Photocopier A4	\$0.20	\$0.20	
	Richmond Tweed Regional Library	Printouts from PCs - Colour Graphics/ Pictures	\$1.20	\$1.10	
	Richmond Tweed Regional Library	Photo Quality Prints	\$3.60	\$3.40	
	Richmond Tweed Regional Library	Genealogy Bibliography	\$5.90	\$5.65	
	Richmond Tweed Regional Library	Communication Information Directories - per Local Government Area (hard copy)	\$35.70	\$34.00	
	Richmond Tweed Regional Library	Communication Information Directories - per Local Government Area (on disk)	\$23.10	\$22.00	
	Richmond Tweed Regional Library	Communication Information Directories - per section up to 25 organisations	\$2.30	\$2.20	
	Richmond Tweed Regional Library	Butts and Certificates of the First Publicans Licences 1930-1960 (hard copy)	\$40.40	\$38.50	
	Richmond Tweed Regional Library	Butts and Certificates of the First Publicans Licences 1930-1960 (on disk)	\$23.10	\$22.00	
	Richmond Tweed Regional Library	Index to Certificates of Depasturing Licences 1837-1860 (hard copy)	\$40.40	\$38.50	
	Richmond Tweed Regional Library	Index to Registers of Land Grants - Leases and Purchases 1820-1856 (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	Index to Registers of Land Grants - Leases and Purchases 1792-1865 (hard copy)	\$53.60	\$51.00	
	Richmond Tweed Regional Library	Family History Research Gazetteer (hard copy)	\$40.40	\$38.50	
	Richmond Tweed Regional Library	An Index to the Northern Star Vol. 1 1876-1884 (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	An Index to the Northern Star Vol. 2 1885-1889 (hard copy)	\$47.60	\$45.30	

Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	Richmond Tweed Regional Library	An Index to the Northern Star Vol. 3 1889-1892 (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	An Index to the Northern Star Vol. 4 1893-1896 (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	An Index to the Northern Star Vol. 5 1897-1899 (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	An Index to the Northern Star 1900-1902 (on disc)	\$11.90	\$11.30	
	Richmond Tweed Regional Library	A Northern Star Index for the Family Historian 1920-1924 (hard copy)	\$23.80	\$22.65	
	Richmond Tweed Regional Library	An Index to The Clarence and Richmond Examiner (hard copy)	\$47.60	\$45.30	
	Richmond Tweed Regional Library	Place Names of the Tweed, Brunswick and Upper Richmond Region (booklet)	\$5.90	\$5.65	
	Richmond Tweed Regional Library	Sequels, Series and Sequences (hard copy)	\$23.80	\$22.65	
	Richmond Tweed Regional Library	USB Memory Sticks	\$9.70	\$9.20	
	Richmond Tweed Regional Library	Scanning (per page)	\$2.40	\$2.25	
	Richmond Tweed Regional Library	PC Use (per half hour) - Non-Members	\$2.40	\$2.25	
	Richmond Tweed Regional Library	PC Use (per half hour) - Reciprocal Visitors	\$2.40	\$2.25	
	Richmond Tweed Regional Library	Headphones (per set)	\$2.20	\$2.05	
	Richmond Tweed Regional Library	Fax Charges - sending personal faxes to anywhere (first page)	\$4.70	\$4.50	
	Richmond Tweed Regional Library	Fax Charges - sending personal faxes to anywhere (each page thereafter)	\$1.20	\$1.10	
	Richmond Tweed Regional Library	Fax Charges - receiving personal faxes (up to 6 pages)	\$2.30	\$2.20	
	Richmond Tweed Regional Library	Research Work (per hour - pro rata for lesser periods)	\$99.80	\$95.00	


Item	Activity	Fee	Exhibited Fee	New or Amended Fee	Description
	Richmond Tweed Regional Library	Promotional Sales - Library Bags (short and long handles)	\$3.20	\$3.00	
	Richmond Tweed Regional Library	Handling fees for the copying of photos from historical collection (plus charge by service provider)	\$10.80	\$10.30	
	Richmond Tweed Regional Library	Talking Book Replacements - Sound Library, Chivers Audio, BBC Audio (CDs)	\$17.30	\$16.45	
	Richmond Tweed Regional Library	Talking Book Replacements - Sounding, Isis, Magna Story Sound (CDs)	\$19.60	\$18.70	
	Richmond Tweed Regional Library	Talking Book Replacements - Bolinda Audio, Clipper Audio, Recorder Book (CDs)	\$11.90	\$11.30	
114	Parks and Reserves	Refundable Deposit bond. Must be paid in cash or by bank cheque		\$1063.00	
115	Sports Grounds	Casual Sports Ground Hire (per day) coaching, training, tournaments (Excludes not for profit sports clubs/associations or schools within the Shire).		\$90.00	Replaces Casual Sports Ground Hire \$50 and Cricket social use of synthetic wicket per day \$95.

These proposed amendments to the Fees and Charges are subject to any Notices of Motion resolved at the June Council Meeting. The 2012/2013 Fees and Charges documentation will be updated following the formal adoption by Council.

Council initiated advice to the community

- Tweed Link issue 757, 24 April 2012 all residents of the Shire were asked to comment on Council's Draft Budget 2012/2013.
- Media Release Tuesday 17 April 2012 notification to all residents that the Draft Budget for 2012/2013 is open for public comment.

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Residents asked to comment on Council's draft budget

Residents will be invited to comment on Council's draft budget for the next financial year, when the organisation's 2012/2013 Draft Operational Plan, 2011/2015 Draft Delivery Program and the associated resourcing strategy and revenue policy and statement go on public exhibition today (24 April).

The 2012/2013 draft budget will total \$182 million and includes:

- \$8.68 million towards road construction capital works (an increase of \$841,000 from the 2011/12 budget).
- \$4 million for the upgrade of the Banora Point Wastewater Treatment Plant.
- \$3.67 million for water pump stations and mains.

- \$2.4 million for West Kingscliff drainage, plus a further \$1.6 million for drainage construction.
- \$1.8 million for the Clarrie Hall Dam Spillway.
- \$1.75 million towards the Coastline Management Plan.
- \$1.64 million towards Burringbar sewerage.

Council's Director Technology and Corporate Services, Troy Green, said 2012/2013 was the final year of Council's 7 Year Infrastructure and Services Plan and incorporated an approved increase of 7.5 per cent on the Ordinary Rate.

Council also resolved to apply to the Independent Regulatory and Pricing Tribunal (IPART) for a Carbon Price Advance of 0.4 per cent, to offset added expenses Council would incur because of the impending carbon tax.

"If approved, that would bring the total permissible increase to ordinary rates to 7.9 per cent," Mr Green said.

"It is important to note the 0.4 per cent will be subject to a reversal in 2013/2014 by 0.1 per cent and 2014/2015 by 0.3 per cent. All councils are subject to the reversal in future years, so it was important to make application for the increase in 2012/2013 so as not to be adversely affected by the reversal."

An increase of 7.9 per cent brings the minimum ordinary residential and farmland rate to \$940.25 and the minimum ordinary business rate to \$1004.80.

• Continued on page 4

Media Release

Tuesday 17 April 2012



Draft Budget for 2012/2013 on exhibition for public comment

Budget includes major funding for roads and water and sewer infrastructure

At today's Council meeting, it was resolved to place the 2012/2013 Draft Operational Plan, 2011/2015 Draft Delivery Program and associated Resourcing Strategy and 2012/2013 Draft Revenue Policy and Statement incorporating the Operational Plan Budget on public exhibition from 24 April to 22 May 2012.

Members of the community are invited to view the documents, which are available on Council's website www.tweed.nsw.gov.au Printed copies are available for review at the Tweed Heads and Murwillumbah Civic Centres.

Across all funds, the 2012/2013 draft budget is \$182 million and includes:

- \$8.68 million towards road construction capital works (an increase of \$841,000 from the 11/12 budget)
- \$4 million for the upgrade of the Banora Point Wastewater Treatment Plant
- \$3.67 million for water pump stations and mains
- \$2.4 million for West Kingscliff drainage, plus a further \$1.6 million for drainage construction
- \$1.8 million for the Clarrie Hall Dam Spillway
- \$1.75 million towards the Coastline Management Plan
- \$1.64 million towards Burringbar sewerage.

There is also \$770,000 allocated for bridges, \$200,000 for capital works at the aquatic centre at Tweed Heads South, \$150,000 towards the construction of the Margaret Olley Centre at the Tweed Regional Art Gallery, \$50,000 for works at Point Danger Lighthouse, \$80,000 towards the Koala Plan of Management and \$25,000 for the Uki Tennis Clubhouse.

Council's Director Technology and Corporate Services, Troy Green, said 2012/2013 represents the final year of Council's 7 Year Infrastructure and Services Plan and incorporates an approved increase of 7.5 per cent on the Ordinary Rate.

"Additionally, Council resolved to make application to the Independent Regulatory and Pricing Tribunal (IPART) for a Carbon Price Advance of 0.4 per cent, which if approved, would bring the total permissible increase to ordinary rates to 7.9 per cent," Mr Green said.

"It is important to note that the 0.4 per cent will be subject to a reversal in 2013/2014 by 0.1 per cent and 2014/2015 by 0.3 per cent. All councils are subject to the reversal in future years, so it was important to make application for the increase in 2012/2013 so as not to be adversely affected by the reversal," Mr Green said.

more/

OPTIONS:

- 1 Consider the content of the public submissions and make appropriate changes to Draft documents.
- 2 Adopt the Draft documents as exhibited.

CONCLUSION:

Council is required to adopt the 2012/2013 Operational Plan and associated documents by 30 June 2012. All draft documents will be updated and uploaded to Council's Web Site following any resolutions from 26 June 2012 Council meeting that impact the documents.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

Sections 403, 404 and 405 Local Government Act 1993

b. Budget/Long Term Financial Plan:

As outlined within the Report and the Draft 2012/2013 Budget and Long Term Financial Plan

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.4 Update Delivery Program

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Special Variation Instrument - variation to clause 1 to include the carbon price advance and withdrawal (ECM 50830815).
 2. Submission from Arts Northern Rivers (ECM 50143646).
 3. Submission from Banora Point & District Residents Association Inc (ECM 50822552).
 4. Submission from Caldera Environment Centre Inc (ECM 50873630).
 5. Submission from Coastline Building Certification Group Pty Ltd (ECM 51368009).
 6. Submission from Kingscliff & District Chamber of Commerce (ECM 51168541).
 7. Submission from Murwillumbah Ratepayers and Residents Association (ECM51171784).
 8. Submission for Salt Surf Life Saving Club (ECM 48525038).
 9. Submission from Tweed Chamber of Commerce and Industry Incorporated (ECM 50964282 and ECM 50820028).
 10. Submission from Tyalgum District Community Association Inc (ECM 50631182).
-

66 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 31 May 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), Clause 212 of the Local Government (General) Regulations and Council policies. Council had **\$147,730,453** invested as at **31 May 2012** and the accrued net return on these funds was **\$664,272** or **5.39%** 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 31 May 2012 totalling \$147,730,453 be received and noted.

REPORT:

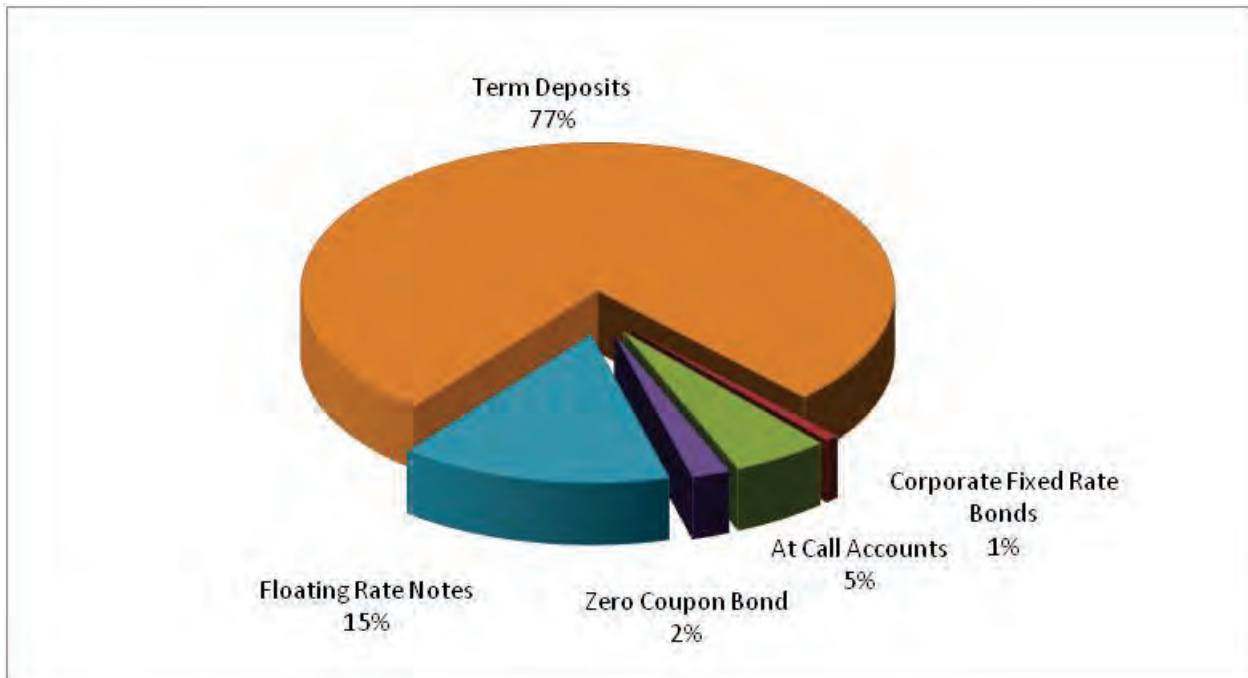
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. Restricted Funds as at 1 July 2011

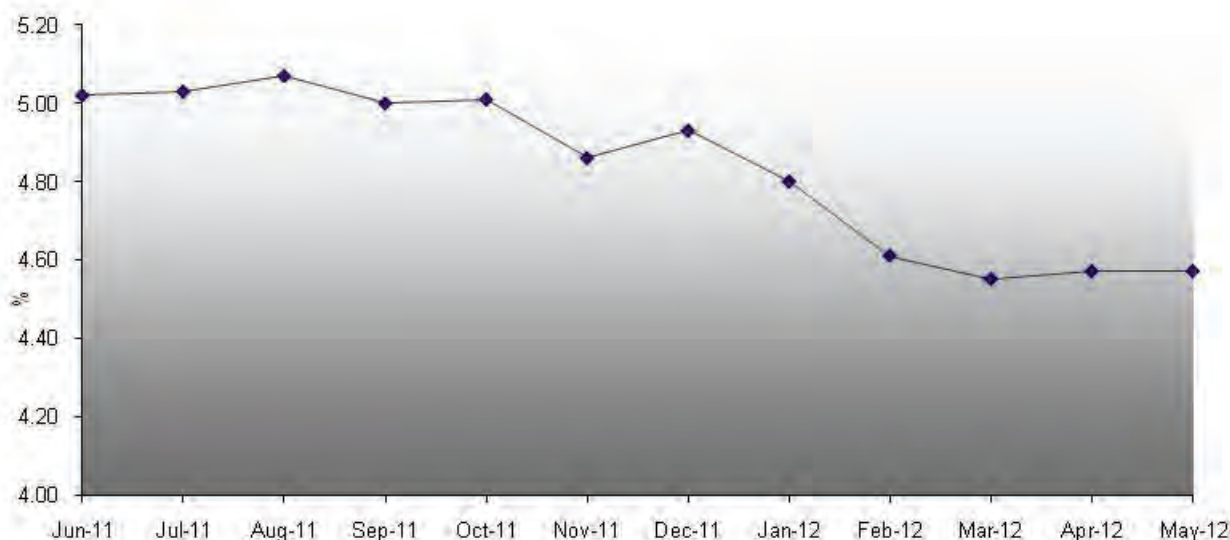
Description	(\$'000)			Total
	General Fund	Water Fund	Sewer Fund	
Externally Restricted	2,864	10,137	61,173	74,174
Crown Caravan Parks	12,430			12,430
Developer Contributions	27,770	15,770		43,540
Domestic Waste Management	8,373			8,373
Grants	3,395			3,395
Internally Restricted	16,613			16,613
Employee Leave Entitlements	2,199			2,199
Grants	3,404			3,404
Unexpended Loans	6,488			6,488
Total	83,536	25,907	61,173	170,616

Note: Restricted Funds Summary next update September 2012

2. Investment Portfolio by Category



3. Investment Rates - 90 Day Bank Bill Rate



4. Direct Securities

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date
AMP Bank	2,000,000.00	1,987,156.00	5.70	FRN	06/06/2014
ANZ Bank	1,000,000.00	1,053,290.00	8.50	Fixed Rate Bond	22/04/2013
CBA	1,000,000.00	993,790.00	5.06	FRN	02/08/2016
CBA	2,000,000.00	1,987,580.00	5.06	FRN	02/08/2016
CBA Retail Bond	1,000,000.00	980,900.00	5.26	FRN	24/12/2015
CBA Retail Bond	498,250.00	490,450.00	5.26	FRN	24/12/2015
CBA Retail Bond	492,500.00	490,450.00	5.26	FRN	24/12/2015
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	3,051,600.00	7.28	Fixed Rate Bond	22/01/2018
Macquarie Bank	1,000,000.00	1,014,287.00	6.41	FRN	13/03/2014
National Australia Bank	1,000,000.00	1,017,980.00	5.73	FRN	19/12/2014
National Australia Bank	1,000,000.00	1,001,380.00	5.01	FRN	05/11/2015
National Australia Bank	2,000,000.00	2,002,280.00	5.60	FRN	21/06/2016
Rabobank	1,000,000.00	993,090.00	5.23	FRN	20/04/2015
Rabobank	1,000,000.00	981,570.00	5.24	FRN	27/07/2016
Rabobank	1,000,000.00	981,570.00	5.24	FRN	27/07/2016
Suncorp Metway	2,000,000.00	1,995,680.00	4.63	FRN	26/05/2014
Suncorp Metway	2,000,000.00	2,012,600.00	5.66	FRN	23/04/2015
Westpac Bank	2,000,000.00	1,994,060.12	4.81	FRN	09/11/2015
Westpac Bank	1,000,000.00	1,000,740.00	5.15	FRN	20/02/2017
Total	26,990,750.00	26,030,453.12	5.58		

ABS = Asset Backed Security
 Bond = Fixed Rate Bond
 CDO = Collateralised Debt Obligation
 FRN = Floating Rate Note

5. Term Deposits

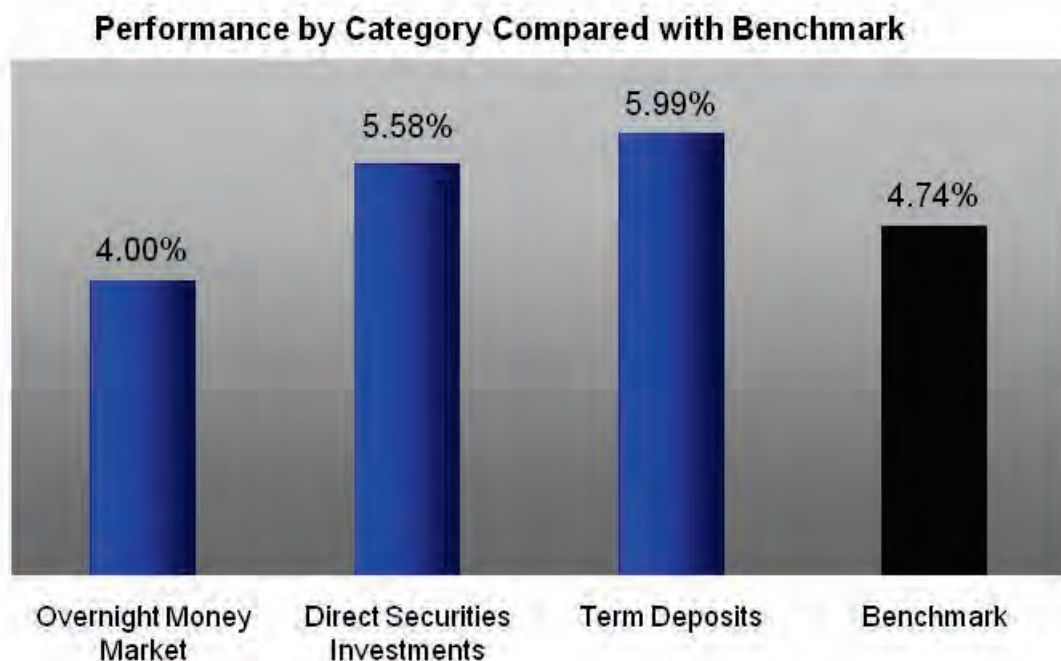
TERM DEPOSITS SORTED BY MATURITY AS AT 31 MAY 2012					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
02-Mar-12	04-Jun-12	NAB (Sept 2012)	5,000,000.00	94	5.667
07-Mar-12	07-Jun-12	ING (RIMSEC Sept 2012)	2,000,000.00	92	5.663
09-Jun-10	12-Jun-12	Investec Bank Investec Bank (RIMSEC) (matures Jun 2014)	1,000,000.00	369	6.420
09-Mar-12	12-Jun-12	Westpac	2,000,000.00	95	6.490
28-Feb-12	03-Jul-12	Suncorp Metway Westpac (Jan 2016)	3,000,000.00	126	5.900
10-Jan-12	10-Jul-12	ING (RIMSEC)	8,000,000.00	182	6.050
11-Apr-12	11-Jul-12	Wide Bay CU	1,000,000.00	91	5.492
13-Mar-12	17-Jul-12	Suncorp Metway	1,000,000.00	126	6.020
17-Jan-12	17-Jul-12	NAB	1,000,000.00	182	6.000
22-Jul-10	18-Jul-12	NAB (matures Jul 2012)	2,000,000.00	727	6.720
21-Jul-11	24-Jul-12	Adelaide Bendigo Bank	5,000,000.00	369	6.320
27-Jul-12	27-Jul-12	AMP (RIMSEC)	5,000,000.00	91	5.250
06-Aug-10	07-Aug-12	MEB	2,000,000.00	732	6.600
08-Feb-12	07-Aug-12	Suncorp Metway	1,000,000.00	181	6.000
05-Aug-11	07-Aug-12	AMP (RIMSEC)	1,000,000.00	368	6.300
14-Feb-12	07-Aug-12	Bank of QLD (matures Nov 2013)	4,000,000.00	175	6.000
08-Feb-12	08-Aug-12	ING (RIMSEC)	1,000,000.00	182	6.000
14-May-12	13-Aug-12	ING (RIMSEC)	2,000,000.00	91	5.280
14-Feb-12	13-Aug-12	AMP Bank (CURVE)	1,000,000.00	181	6.000
14-Feb-12	13-Aug-12	ING (Curve)	1,000,000.00	181	6.000
09-Aug-11	14-Aug-12	Westpac (Nov 2014)	1,000,000.00	371	6.100
14-Feb-12	14-Aug-12	NAB (Aug 2012)	2,000,000.00	182	6.000
14-May-12	14-Aug-12	Suncorp Westpac (Feb 2016)	2,000,000.00	92	5.110
16-May-12	16-Aug-12	ME Bank	1,000,000.00	90	5.630
22-May-12	20-Aug-12	Heritage Bank	3,000,000.00	182	5.400
18-May-12	20-Aug-12	ING (Curve)	2,000,000.00	94	4.848
23-May-12	21-Aug-12	NAB (RBS) (Aug 2015)	1,000,000.00	90	5.380
22-May-12	21-Aug-12	ING (RIMSEC)	2,000,000.00	91	5.500
21-Feb-12	21-Aug-12	Suncorp Metway	1,000,000.00	182	6.050
28-May-12	27-Aug-12	ING (RIMSEC)	2,000,000.00	91	4.733
28-Feb-12	28-Aug-12	ING (RIMSEC)	2,000,000.00	182	6.040
23-Feb-12	28-Aug-12	Suncorp Metway	1,000,000.00	187	6.020
31-May-12	31-Aug-12	IMB (Dec 2013) ING (RIMSEC) (matures Sept 2012)	2,000,000.00	92	4.683
30-May-12	04-Sep-12	Bankwest	1,000,000.00	97	4.583
30-May-12	11-Sep-12	Rural Bank (Curve)	2,000,000.00	104	5.300
13-Mar-12	11-Sep-12	BOQ	2,000,000.00	182	5.950
17-Feb-12	18-Sep-12		2,000,000.00	214	6.000

TERM DEPOSITS SORTED BY MATURITY AS AT 31 MAY 2012					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
13-Mar-12	18-Sep-12	MEB	1,000,000.00	189	6.000
17-May-12	16-Oct-12	BOQ	4,000,000.00	152	5.450
21-Mar-12	24-Oct-12	ING (RIMSEC) Rural Bank	2,000,000.00	217	6.100
30-May-12	27-Nov-12	(Curve)	2,000,000.00	181	5.340
08-Dec-10	11-Dec-12	NAB	2,000,000.00	733	6.950
04-Mar-11	05-Mar-13	Westpac Adelaide Bendigo	2,000,000.00	735	6.350
22-Mar-11	19-Mar-13	Bank	1,000,000.00	728	6.500
22-Mar-11	26-Mar-13	NAB	1,000,000.00	735	6.380
17-May-11	21-May-13	Investec Bank	1,000,000.00	735	7.100
22-May-12	28-May-13	Bendigo Bank Suncorp Metway	2,000,000.00	369	5.350
21-Jul-10	23-Jul-13	(RBS) NAB (RBS) (matures Aug	1,000,000.00	1097	7.300
11-Aug-10	11-Aug-13	2015)	2,000,000.00	1095	6.000
12-Aug-10	13-Aug-13	Bank of QLD	2,000,000.00	1096	7.050
01-Sep-10	02-Sep-13	NAB	4,000,000.00	1098	6.520
30-Aug-11	03-Sep-13	AMP Bank (CURVE)	500,000.00	735	6.000
30-Aug-11	10-Sep-13	AMP Bank (CURVE)	500,000.00	742	6.000
22-Mar-11	25-Mar-14	Bank of QLD Bank of QLD	1,000,000.00	1099	6.750
04-Apr-11	08-Apr-14	(Apr 2014) RaboDirect	2,000,000.00	1100	6.390
07-Feb-12	10-Feb-15	(Curve) RaboDirect	1,000,000.00	1098	6.000
22-Mar-11	22-Mar-16	RIMSEC (Mar 2016) Westpac	1,000,000.00	1827	7.150
07-Apr-11	07-Apr-16	(matures Apr 2016) RaboDirect	2,000,000.00	1825	7.000
11-Nov-11	22-Nov-16	(Curve)	1,000,000.00	1835	6.400
			114,000,000.00		5.993

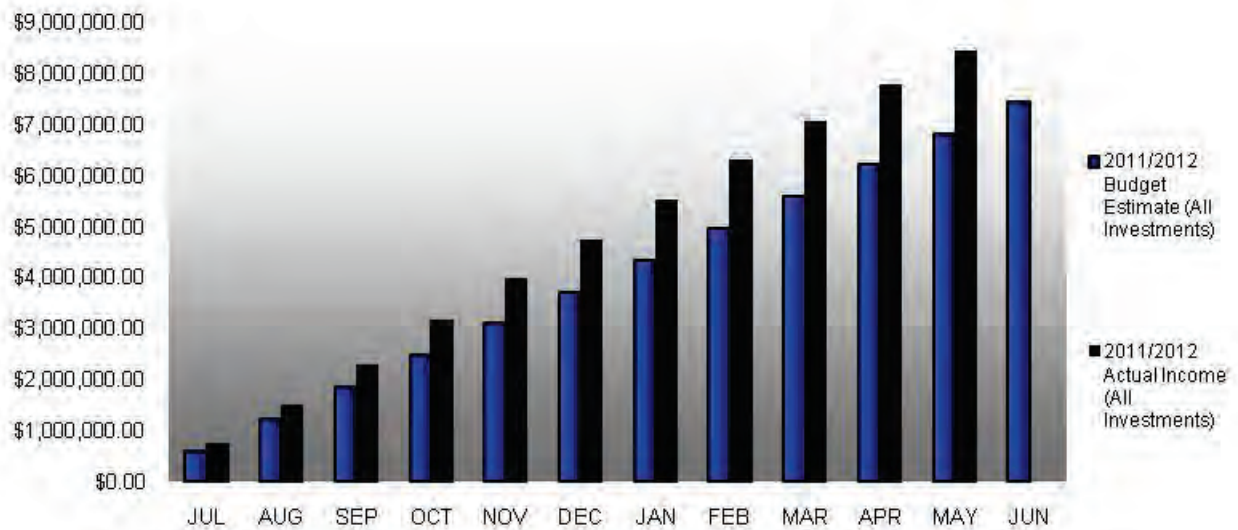
6. Performance by Category

Category	Face Value	Market Value	Average Return	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$7,700,000.00	\$7,700,000.00	4.00%	-0.74%
Direct Securities Investments	\$26,990,750.00	\$26,030,453.12	5.58%	0.84%
Term Deposits	\$114,000,000.00	\$114,000,000.00	5.99%	1.25%
Benchmark	\$148,690,750.00	\$147,730,453.12	4.74%	Benchmark 30 Day UBS Bank Bill Index

7. Performance by Category Compared with Benchmark



8. Total Portfolio Income Year to Date



9. Investment Policy Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category	100%	0.00%	A-1+	100%	21.56%
AA Category	100%	29.00%	A-1	100%	19.12%
A Category or below	60%	5.93%	A-2	60%	13.84%
BBB Category or below	20%	5.93%	A-3	20%	1.32%
Unrated	10%	1.98%	Unrated	10%	1.32%

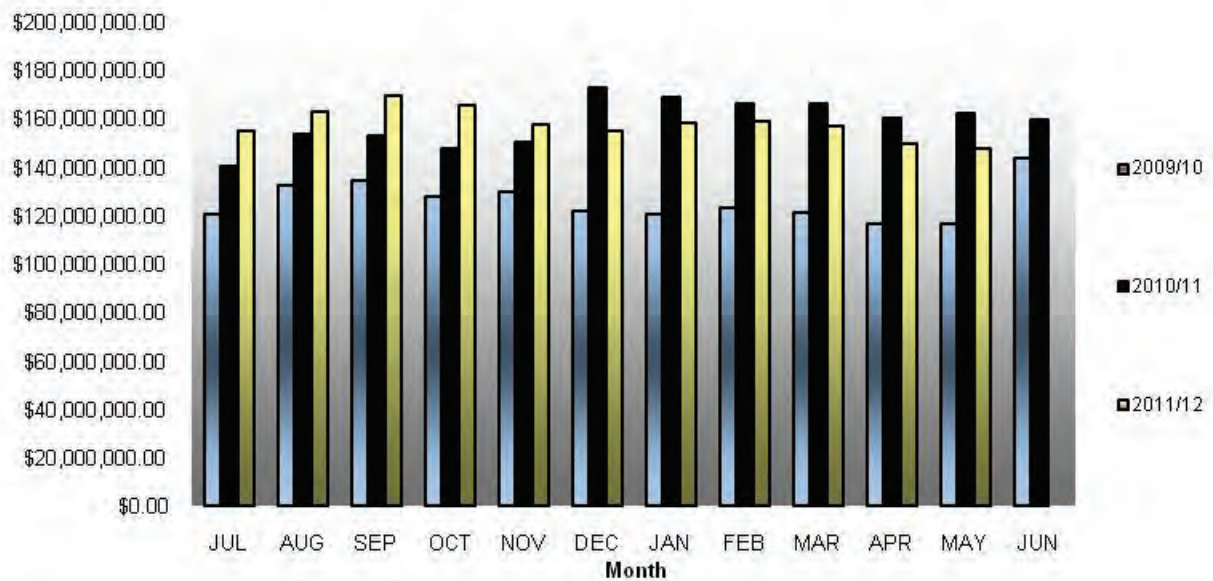
10. Term to Maturity

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	58.46%	Maximum 100% Minimum 40% of portfolio
Between 365 days and 2 years	11.87%	Maximum 60%.
Between 2 years and 5 years	27.03%	Maximum 35%.
Between 5 years and 7 years	2.64%	Grandfathered investment. Outside current policy limit.
Total	100.00%	

11. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	Highly liquid - same day access to funds with no impact on capital	Not a capital growth asset
			Highly secure as a bank deposit	Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	Highly liquid - same day access to funds, usually with no or minimal impact on capital	Not a growth asset
			Highly secure (bank risk)	Underperforms other asset classes in the long term
				May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	Liquid - same day access to funds	Will incur a small capital loss for early termination
			Highly secure as a bank deposit	Underperforms growth assets in the longer term
Floating rate Note Bond	1 - 5 years	Greater than 2 years	Increased yield over bank bills	Not a growth asset
			Can accrue capital gain if sold ahead of maturity and market interest rates have fallen	Can incur capital losses if sold ahead of maturity and market interest rates have risen
			Coupon interest rate resets quarterly based on 90 day bank bill swap rate	Credit exposure to company issuing the paper
			Relatively liquid	May not be bank guaranteed
			Less administration than bank bills	Underperforms other asset classes in the long term
Fixed Rate Bond	1 - 5 years	Greater than 3 years	Can accrue capital gain if sold before maturity and market interest rates have fallen	Can incur capital losses if sold before maturity and market interest rates have risen
			Fixed return - semi annual coupons	Credit exposure to company issuing paper
			Generally liquid	
			Can be government or corporate issuer	

12. Monthly Comparison of Total Funds Invested



13. Section 94 Contributions

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	Banora Point West/Tweed Heads South Open Space	3,984,631	-
02	Banora Point Western Drainage	505,795	-
03	Banora Point West/Tweed Heads South Community Facilities	36,775	-
04	Tweed Road Contribution Plan	11,549,285	110,321
05	Local Area Open Space	1,208,622	10,829
06	Street Tree Planting in Residential Areas	230,850	-
07	West Kingscliff Opens Space and Drainage	495,735	-
10	Cobaki Lakes Open Space and Community Facilities	(767)	-
11	Shire Wide Library Facilities	1,623,723	7,937
12	Bus Shelters	46,881	102
13	Eviron Cemetery	(47,928)	1,227
14	Mebbin Springs Subdivision - Rural Road Upgrading	76,130	-
15	Community Facilities	1,364,512	-
16	Emergency Facilities - Surf Lifesaving	394,424	1,122
18	Council Administration and Technical Support	1,475,882	17,763
19	Kings Beach/Casuarina/Kings Forest	1,010,025	1,410
20	Seabreeze Estate - Open Space	635	-
21	Terranora Village Estate - Open Space and Community Facilities	26,065	-
22	Shirewide Cycleways	340,135	4,518
23	Shirewide Carparking	1,875,418	-
25	Salt Development - Open Space and Car Parking	853,179	-
26	Shirewide/Regional Open Space	3,036,844	45,110
27	Tweed Heads Masterplan Local Open Space and Streetscaping	88,896	-

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
28	Seaside City	(713)	-
90	Footpaths and Cycleway	(42,904)	-
91	DCP14	91,107	-
92	Public Reserve Contributions	114,358	-
95	Bilambil Heights	445,521	-
Total		30,783,117	200,337

14. Economic Commentary

Australian Cash Rate

The Reserve Bank of Australia (RBA) reduced the official cash rate by a further 0.25% to 3.50% pa at its 5 June meeting. The RBA noted that while Australia's unemployment rate is low, inflation is still within the 2-3% target range. In order to deliver appropriate borrowing rates, the RBA judged it necessary to again reduce the cash rate by 0.25%.

The RBA noted previously that Europe would remain a potential source of adverse shocks. Europe's economic and financial prospects have again been clouded by weakening growth, heightened political uncertainty and concerns about fiscal sustainability and the strength of some banks.

Economists continue to expect further rate cuts by the RBA this year as sovereign debt issues in Europe continue to affect global trade, particularly with China and global confidence in general.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with Division of Local Government guidelines with 82% of the portfolio held in term deposits or cash at call. Term deposit and bond rates have fallen considerably but continue to provide above trend returns while minimizing capital risk.

All investment categories except cash at call out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 1.50% pa above the 30 day UBS bank bill index for the last 12 month period.

Source: Oakvale Capital Limited and Governor of the RBA.

14. Investment Summary as at 31 May 2012

GENERAL FUND

CORPORATE FIXED RATE BONDS	4,104,890.00	
FLOATING RATE NOTES	21,925,563.12	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	42,000,000.00	
CALL ACCOUNT	7,700,000.00	75,730,453.12

WATER FUND

TERM DEPOSITS	26,000,000.00	
FUND MANAGERS	0.00	26,000,000.00

SEWERAGE FUND

TERM DEPOSITS	46,000,000.00	
FUND MANAGERS	0.00	46,000,000.00

TOTAL INVESTMENTS		147,730,453.12
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It should be noted that the General Fund investments of **\$75 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 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



**Chief Financial Officer
(Responsible Accounting Officer)**

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

- a. Policy:**
Investment (of Surplus Funds) Version 1.5.
- b. Budget/Long Term Financial Plan:**
In accordance with Budget Projections.
- c. Legal:**
Not Applicable.
- d. Communication/Engagement:**
Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.35 Council funds are invested in accordance with legislation requirements and Council Policy
- 1.3.1.35.1 Council funds are invested to provide maximum returns whilst having due regard to risk

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

67 [TCS-CM] Complaint Analysis Report 1 January to 31 March 2012

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Council's Complaints Handling Policy is a framework for the effective management of complaints. The Policy requires a complaint analysis report be reported to Council detailed by type and outcomes/actions on a quarterly basis.

RECOMMENDATION:

That Council receives and notes the Complaints Analysis Report for the period 1 January to 31 March 2012.

REPORT:

Council's Complaints Handling Policy is a framework for the effective management of complaints.

A complaint is an expression of dissatisfaction, made in respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not. It is not a request for service, (customer work request), or information or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint can progress from Council's lack of action following the lodgement of a request for service or a request for information.

The Policy requires a complaint analysis report be reported to Council detailed by type and outcomes/actions on a quarterly basis.

It is advised that for the period 1 January to 31 March 2012, 10 items were received which comply with the definition of a complaint.

There is one complaint from the September quarter and two complaints from the March quarter that have not been completely actioned; however they are in the process of being investigated.

The complaints principally refer to the:

- Failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within fourteen (14) days in accordance with the Correspondence - Response to Policy.
- Respondents being dissatisfied with the actions of Council officers in handling their original request for service.
- Respondents being dissatisfied that issues have not been dealt with by Council Officers.
- Complainants being dissatisfied by decisions made by Council.

The type of complaint has been categorised in accordance with categories used by the Division of Local Government. This methodology will assist in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Information on the 10 complaints follows:

Complaint Type	Ref	Details of Complaint	Comments
Customer Service Service Standards	1. 1.	No reply to previous correspondence regarding quality of drinking water in Leisure Drive, Banora Point.	Detailed response sent advising that water quality is consistent with Australian Drinking Water Quality Guidelines.
	2.	Fourth email sent with no response regarding speeding traffic along Hillcrest Avenue.	Detailed response sent outlining Council's action in the matter including placement of an advisory radar on Hillcrest Avenue when available to educate drivers of the posted speed limit.
	3.	Visitor to the Murwillumbah Visitor Information Centre has complained that neither the Council nor the museum website state that the museum is currently closed for renovations. Drove 40kms to visit.	Website updated with statement - museum currently closed for redevelopment.
Roads, Parks and Water	3. 1.	Viking Street, Kingscliff is full of potholes. Street requires maintenance and new road surface.	CRM created. Street is routinely patched.
	2.	Road closure, Tyalgum Road, Tyalgum is affecting business.	Detailed response sent advising the reasons for the road closure.
	3.	Requesting site visit to inspect a road slip on a Council road reserve - Crooks Valley Road, Crystal Creek.	Site visit had been arranged for 8 May 2012. Complainant now advised that she is investigating alternatives to resolve ongoing issues with Council.
	4.	Third email requesting help with ongoing sewage discharge problem over property during rainfall.	Detailed response sent outlining the reasons for the problem including bolting of manhole lids and Council will clean up and disinfect the area immediately on report of future incidents.

Complaint Type	Ref	Details of Complaint	Comments
	5.	Requesting again inspection of drain and blockage, Tweed Valley Way.	CRM (DRA12/0173) created. Drain to be inspected by Works officers.
	6.	On numerous occasions asked Council to mow footpath, Urliup Road, Bilambil.	Letter sent advising that the Council will undertake maintenance when resources are in the area but not in a position to mow the footpath to the expected aesthetic level of residents.
	7.	Detailed chronological report sent on events concerning Council's town water system.	Detailed response sent providing answers on the matters outlined in the report.

OPTIONS:

Not applicable.

CONCLUSION:

It is recommended that Council receives and notes the Complaints Analysis Report for the period 1 January to 31 March 2012.

COUNCIL IMPLICATIONS:

a. Policy:

Complaints Handling Policy v1.3.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Attachment of Legal Advice-Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.2 Provide information to Councillors to enable them to carry out their civic office functions
- 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
- 1.2.1.6 Access to information

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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68 [TCS-CM] Legal Services Register as at 31 March 2012

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

The Legal Services Report as at 31 March 2012 monitors the status on legal instructions, for current or recently completed matters which have been issued to panel legal providers. The report includes payments to the various legal providers, but also payments for barristers and consultants where applicable.

The total amount paid for legal instructions for the quarter 1 January to 31 March 2012 is \$88,816.

The legal instructions that principally relate to the March quarter expenditure are:

- GS4/95/73 - Lizzio Subdivision, Condong - Appeal. \$1,505
- 576 Cudgen Road - Class 4 action - institute court order to remove building works and unauthorised use. \$23,948
- 8 Urliup Road, Class 4 action - institute court order for OSSM compliance. \$5,994
- DA09/0270 & DA09/0344 - Class 4 action - refusal of S96 application. \$8,400
- Class 4 action - 7 year Special Rate Variation. \$3,804
- DA08/0966 Class 4 action - refusal to determine development application - 49 Upper Crystal Creek Road, Crystal Creek. \$3,622
- Pottsville Employment Land - Voluntary Planning Agreement. \$7,639
- DA10/0295 Class 1 action - Refusal of Optus Tower, 37 Boxhill Road, Limpinwood. \$27,194

In some of the above matters, expenses have also been incurred in previous financial years information is included in the attached register.

RECOMMENDATION:

That Council receives and notes the Legal Services Register as at 31 March 2012.

REPORT:

Expenditure incurred on legal instructions for the period 1 January to 31 March 2012 is as follows:

Category 1 Planning, Environmental and Local Government Law	Category 2 Commercial/Property Law	District/Local Court
\$88,501	\$0	\$315

A summary of payments to each of the Legal Service Providers including barristers and consultants where applicable, for current or recently completed matters is as follows:

Legal Service Provider Category 1 Planning, Environmental, Local Government Law	Year to Date	Current Period 1 January to 31 March 2012
HWL Ebsworth Lawyers	\$27,726	\$4,724
Lindsay Taylor Lawyers	\$51,887	\$43,233
Maddocks Lawyers	\$7,264	\$3,868
Marsdens Law Group	\$54,204	\$5,229
Sparke Helmore Lawyers	\$123,715	\$29,942
Stacks – The Law Firm	\$9,166	\$1,505
Wilshire Webb Staunton Beattie	\$1,808	Nil

Legal Service Provider Category 2 Commercial/Property Law	Year to Date	Current Period 1 January to 31 March 2012
HWL Ebsworth Lawyers	Nil	Nil
Lindsay Taylor Lawyers	Nil	Nil
Maddocks Lawyers	Nil	Nil
Marsdens Law Group	Nil	Nil
Stacks – The Law Firm	Nil	Nil
Wilshire Webb Staunton Beattie	Nil	Nil

Legal Service Provider District/Local Court	Year to Date	Current Period 1 January to 31 March 2012
Stacks – The Law Firm	\$3,232	\$315

LEGAL SERVICES REGISTER as at 31 March 2012

Service Provider	Cat.	Description of Matter	General Instructions	Costs to Date	Comments
HWL Ebsworth	1	Class 4 Appeal – DA08/0966 Refusal to determine Development Application and other issues impacting upon on-site sewerage management system at 49 Upper Crystal Creek Road Crystal Creek. File DA08/0966.	Defend the matter in the Land and Environment Court.	09/10 \$48,763 10/11 \$24,185 11/12 \$14,592 \$87,540	In Progress – Land and Environment directions hearing held on 4 December 2009. Case heard on 4 February 2010. Case dismissed, costs awarded, Appeal dismissed by Supreme Court. Payment of \$7,106.53 for security of costs received. Matter of recovering further costs in progress.
HWL Ebsworth	1	Class 1 Appeal - appeal by objector - dissatisfied with the determination of a consent authority - Kingscliff Police Station. File DA11/0257.	Defend the matter in the Land and Environment Court.	11/12 \$1,102	In Progress - Applicant filed and served points of claim. Direction hearing held on 20 April 2012. Council to file and serve points of claim by 18 May 2012. Parties to obtain hearing after 25 June 2012.
Lindsay Taylor	1	Provide advice on new Voluntary Planning Agreement - Pottsville Employment Land.	Provide appropriate advice.	11/12 \$7,639	In Progress - Final draft of Voluntary Planning Agreement for 39 Kudgerie Ave, Cudgera Creek being reviewed.
Lindsay Taylor	1	Class 1 Appeal - refusal of Optus Tower, 37 Boxhill Road, Limpinwood. File DA10/0295.	Defend the matter in the Land and Environment Court.	11/12 \$27,194	In Progress - Hearing part heard 22-23 March 2012. Adjourned to 8 May 2012.

Service Provider	Cat.	Description of Matter	General Instructions	Costs to Date	Comments
Marsdens	1	Class 4 Appeal – 7 Year Special Rate Variation. File Budget/Management Plan.	Defend the matter in the Land and Environment Court	07/08 \$24,446 08/09 \$280,956 09/10 \$79,879 10/11 \$58,658 11/12 \$49,287 \$493,226	In Progress – Land and Environment judgement handed down 30 December 2008, applicants claim was unsuccessful, part costs claim awarded, Court of Appeal case heard on 5 February 2010. Applicant was unsuccessful, part costs awarded. Costs of LEC and Court of Appeal have been assessed. Application for Special Leave to Appeal refused by High Court on 12 August 2011 with costs. Recovery of costs currently being pursued.
Sparke Helmore	1	Class 4 Action - Institute Court Order to remove building works and unauthorised use 576 Cudgen Road, Cudgen.	Commence action in the Land and Environment Court.	11/12 \$98,690	In Progress - Court order case heard on 30 November and 1 December 2011. Judgement handed down on 9 December 2011 in favour of council. Respondent to pay council costs. Action reported to council to enforce judgement. Orders heard on 20 April 2012. Council to file and serve any evidence. Notice of Motion listed for hearing 24 May 2012.

Service Provider	Cat.	Description of Matter	General Instructions	Costs to Date	Comments
Stacks	District/ Local Court	Statement of Claim - DA04/1028- 207 Farrants Hill Road - building encroachment. File DA04/1028.	Defend the matter in the District Court of NSW.	07/08 \$7,594 08/09 \$34,534 09/10 \$2,242 10/11 \$14,936 11/12 \$3,232 \$62,538	In Progress – Case has been struck out in the District Court. Costs awarded to defendants, matter of costs now to be pursued internally by council. Deed of Agreement entered into for recovery of costs.
Stacks	1	Appeal to Supreme Court of Appeal –M W Allen (Lizzio Subdivision – Condong). File GS4/95/73.	Represent Council in the Supreme Court and engage counsel where appropriate.	08/09 \$29,609 09/10 \$26,100 10/11 \$3,296 11/12 \$9,166 \$68,171	In Progress – second appeal in the Supreme Court heard 16 October 2009, Judge reserved his decision. Judge upheld the appeal, costs awarded to Council. Council instructions to pursue matter of costs and associated expenses. Judgement handed down on 10 February 2012. Case to be reviewed by an independent legal provider.

Service Provider	Cat.	Description of Matter	General Instructions	Costs to Date	Comments
HWL Ebsworth	1	Class 4 Appeal-DA09/0727 Noble Lakes Monarch Drive Kingscliff Section 96 Application refused by Joint Regional Planning Panel. File DA09/0727.	Represent Council's interest in the Land and Environment Court.	10/11 \$38,711 11/12 \$289 \$39,000	Completed – Matter listed for hearing on 1 and 2 March 2011. Proceedings were withdrawn by the applicant on the first day of the hearing.
HWL Ebsworth	1	Class 1 Appeal - Section 64 and 94 fees for change of use development application at 77 Tamarind Avenue, Bogangar. File DA10/0160.	Defend the matter in the Land and Environment Court.	11/12 \$11,743	Completed - Notice of Discontinuance issued 20 October 2011.

Service Provider	Cat.	Description of Matter	General Instructions	Costs to Date	Comments
Lindsay Taylor Lawyers	1	Unauthorised clearing and earthworks – Tomewin Road Tomewin.	Provide advice in respect of ascertaining options for legal proceedings.	09/10 \$5,559 10/11 \$4,347 11/12 \$104 \$10,010	Completed – Advice provided.
Lindsay Taylor Lawyers	1	Class 4 appeal - Creek Street, Hastings Point - refusal of S96 applications. Files DA09/0344 and DA09/0290.	Defend the matter in the Land and Environment Court.	11/12 \$16,950	Completed - Matter heard and further amended plan consented.
Maddocks	1	General advice and information.	Provide general advice and information.	11/12 \$3,520	Completed - Advices provided to Council.
Maddocks	1	Class 1 Appeal - Refusal of Development Application, Morton Street, Chinderah. File D97/0175.02.	Represent Council in the Land and Environment Court.	11/12 \$3,744	Completed - S34 agreement and orders prepared to be ratified by the Land and Environment Court. Appeal upheld. Consent granted to the application to modify development consent.
Marsdens	1	Class 1 Appeal - deemed refusal of application for a construction certificate - Wooyung Road, Wooyung. File CC10/0391.	Defend the matter in the Land and Environment Court.	11/12 \$3,492	Completed - Notice of discontinuance issued 10 October 2011.
Marsdens	1	Provide general advice and information on S96 Application.	Provide appropriate advice.	11/12 \$1,425	Completed - Advice provided.
Sparke Helmore	1	Class 4 Proceedings - institute action in the Land and Environment Court for compliance of OSSM, 8 Uriup Road.	Represent council in the Land and Environment Court.	11/12 \$25,025	Completed - Consent orders issued. Matter adjourned for hearing on 3 February 2012 and March 2012 for costs, which were agreed. Proceedings now finalised.
Wilshire Webb Staunton Beattie	1	Appeal against imposition of conditions upon development consent. File DA06/0897.01.	Represent Council in the Land and Environment Court.	10/11 \$19,572 11/12 \$1,808 \$21,380	Completed – S34 conferences held. Revised nine lot subdivision plan lodged, S34 agreement entered into.

OPTIONS:

Not Applicable.

CONCLUSION:

Legal expenses for the quarter related to primarily to actions instigated in previous periods.

COUNCIL IMPLICATIONS:

a. Policy:

Tender AC2009/073 Provision of Legal Services.

b. Budget/Long Term Financial Plan:

As reported with legal expenses allowed for in appropriate areas of Council's budget.

c. Legal:

No-Legal advice has not been received.

Attachment of Legal Advice-Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

69 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 4 May 2012

Venue:

Minjungbal Museum & Cultural Centre, Tweed Heads South

Time:

9.36am

Present:

Aunty Joyce Summers (Canowindra representative), Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative), Councillor Dot Holdom, Desrae Rotumah (Tweed Aboriginal Co-operative Society Limited representative), Des Williams, (Tweed Byron Local Aboriginal Land Council representative)

Ex-officio:

Linda Cooper (Minutes) (Tweed Shire Council), Fred Gesha (Tweed Shire Council), Anne McLean (Tweed Shire Council) for entire meeting apart from 1.00pm-1.30pm

Guest Observers (in order of arrival):

Rick Nolan (Employment Plus), from 9.36am-1.16pm

Jane Lofthouse (Tweed Shire Council) from 12.30pm-1.16pm

Ian Fox (Converge) from 1.02pm-3.00pm

Tim Gall (Converge) from 1.06pm-3.00pm

Stewart Brawley (Tweed Shire Council) from 1.30pm-2.04pm

Apologies:

Councillor Barry Longland (Mayor), David Oxenham (Tweed Shire Council), Leweena Williams (Tweed Aboriginal Corporation for Sport representative), Garth Lena (Minyunbul Community representative)

Chair: Desrae Rotumah

Moved: Des Williams

Seconded: Jackie McDonald

RESOLVED that the Chair was declared vacant and nominations were called. Desrae Rotumah was nominated and was unanimously elected to Chair the meeting.

Desrae Rotumah opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Councillor Dot Holdom

Seconded: Jackie McDonald

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 13 April 2012 be accepted as a true and accurate record of the proceedings of that meeting with the following amendments.

Amend page three of the Minutes of Friday 13 April 2012. Item A1(c). Change the heading to:

"Charles Street, Pottsville (New Item)"

Amend page five of the Minutes of Friday 13 April 2012. Item A2, fifth paragraph, third sentence to read:

"Jackie thought that only 10 Aboriginal trainees were employed and asked why the community was not told this."

Amend page five of the Minutes of Friday 13 April 2012. Item A2, fifth paragraph, final sentence to read:

"Terry will check on the exact figure and get back to AAC with this information."

Amend page five of the Minutes of Friday 13 April 2012. Item A2, sixth paragraph, action point to read:

"Terry Watson is to advise AAC on the exact number of Aboriginal trainees employed on the Banora Point bypass project."

Amend page seven of the Minutes of Friday 13 April 2012. Item A2, fifth paragraph, final sentence to read:

"Terry asked AAC to send him an email."

Amend page seven of the Minutes of Friday 13 April 2012. Item A2, sixth paragraph, action point to read:

"AAC is to ask Terry Watson to assist with employment and training opportunities at Cobaki Lakes and Kings Forest developments."

Amend page 12 of the Minutes of Friday 13 April 2012. Item A3(a), sixth paragraph, second sentence to read:

"For example, Jackie expressed her disappointment on behalf of the community when people use Community Access to speak in a slanderous way about members of the community and members of the AAC."

Amend page 16 of the Minutes of Friday 13 April 2012. Item A4(b). Remove the first sentence:

"Jackie advised she has mentioned before that the state government would need to be consulted."

Amend page 18 of the Minutes of Friday 13 April 2012. Item A4(c). Remove the final sentence:

"Jackie had previously proposed relics be stored in a school in the local area; however Jackie is unsure whether a school would want that responsibility for storing it."

Amend page 19 of the Minutes of Friday 13 April 2012. Item A4(e). Change the heading to:

"Charles Street, Pottsville (New Item) [Also Outstanding Matter 30]"

Outstanding Matters Report

O1 "Between River and Sea" Historical Images of Kingscliff
Deferred.

O2 Memorandum of Understanding ("MOU")
Deferred.

O3 Terms of Reference
Deferred.

O4 Terms of Reference
Deferred.

O5 Aboriginal Community Member Representation to Museum Advisory Committee
Deferred.

O6 Pacific Highway, Banora Point Upgrade
Action: Jackie McDonald will ask for confirmation of the Laura Street bridge's name at the 8 May 2012 Aboriginal Focus Group meeting and report back to the Aboriginal Advisory Committee (AAC) at the next AAC meeting.

RTA has accepted "Goodjingburra Connection" for the concrete viaduct's name.

O7 Pacific Highway, Banora Point Upgrade
The Southbound Laura Street screen image with the three brothers and mountain is approved.

Moved: Jackie McDonald

Seconded: Councillor Dot Holdom

RESOLVED to rescind the previous decision to use the image of the two brothers and mountain and moved to support the updated image using three brothers.

Jackie McDonald advised that the text for the 'Three Brothers' story on a panel at Wilson Park needs to be approved by AAC.

Moved: Jackie McDonald

Seconded: Aunty Joyce Summers

RESOLVED to use the 'Three Brothers' story from the Tweed Shire Council's Vision Statement, specifically the two paragraphs as follows:

"Aboriginal oral tradition tells the story of 'Three Brothers' who came to his land and its people in the 'Dreaming', gave the lore, and formed the nucleus of tribes with whom today's traditional owner descendants identify. Scientific evidence from selected sites supports the fact that Aboriginal people were living in the Tweed from at least 10,000 years ago. Despite development impacts there are many sites and places of significance to Aboriginal people. Among the most well known is Wollumbin (Mt Warning) which is a place of great spiritual significance and a focus for many stories and beliefs.

Tweed Aboriginal people seek respect for their cultural values and protection for the remaining sites and places within the Shire."

Action: Tweed Shire Council will advise Roads and Maritime Services of the chosen text.

This item can now be closed.

O8 Telecommunications / Mobile Phone Towers
Deferred.

O9 Reconciliation Week
Deferred.

O10 AHIP Application for Kirkwood Road Project
Moved: Aunty Joyce Summers
Seconded: Jackie McDonald
RESOLVED to use the following wording on the plaque:

"This site marks and recognises the location of a registered Aboriginal scarred / marked tree and acknowledges its enduring and continuing cultural and spiritual significance to the local Aboriginal people."

Action: Anne McLean will advise Tweed Shire Council's Jason Young of the plaque wording.

This item can now be closed.

O11 Aboriginal Statement
Deferred to June AAC meeting.

O12 Pottsville Environment Park
Wording of the panel was agreed.

Moved: Councillor Dot Holdom
Seconded: Aunty Joyce Summers
RESOLVED that the text in the sixth paragraph of the panel wording is moved to the end of the fourth paragraph. The following sentence needs to be deleted:
"Two hundred years ago it would have been possible to see men spear-fishing from a bark canoe in Cudgera Creek and even cooking them in the canoe on a small fire".

Action: Anne McLean will advise Council of AAC's choice of wording to use on the panel.

AAC chose the photograph to use on the signage. AAC were presented with 12 different photographs to choose from.

Moved: Des Williams
Seconded: Jackie McDonald
RESOLVED that the photograph chosen for the panel at Pottsville Environment Park is the fourth from the left on the bottom row of the sheet of photographs provided by Anne McLean.

Action: Anne McLean will advise Council of AAC's choice of photograph to use on the panel.

This item can now be closed.

O13 Bush Regeneration teams
Action: AAC members are to supply names at the June AAC meeting of people who would be interested in undertaking this work.

O14 LPMA Projects

Action: Invite Phil Fogarty to June AAC meeting to discuss various LPMA Projects.

O15 Green Teams Alliance

Anne McLean advised that Stewart Brawley will attend the meeting later today to give an update on where Council is at with Green Teams Alliance (GTA). GTA obtained funding from DEEWR for providing employment and training opportunities to Aboriginal people. One project of interest is maintenance around Jack Evans Boat Harbour.

O16 Care Agreement Application for Kirkwood Road Project

The Scar Tree has been removed and is housed in a storage shed. It will be temporarily stored there until AAC decide on a permanent storage place. Desrae Rotumah advised that people at the Tweed Aboriginal Co-operative Society Limited (TACSL) are not sure of the significance of the tree so they are reluctant to make a decision on whether it can be stored at the Museum.

Jackie McDonald advised that the Tweed Wollumbin Aboriginal Education Consultative Group (TWAECG) is of the view that the tree should be housed at the museum. Desrae Rotumah suggested it goes to Goorimahbah. Aunty Joyce Summers said the tree belongs to the people in this area and does not feel it will affect the bora ring.

Desrae Rotumah has a TACSL meeting on 7 May. She will ask the TACSL Board first if Des Williams can attend this meeting to give his advice. Jackie McDonald suggested that Council go ahead with the preservation plan in the meantime.

Action: Desrae Rotumah is to advise Des Williams if it is necessary for him to attend the TACSL meeting on 7 May.

O17 Royal Terranora Resort at Marana Street, Bilambil Heights

Tweed Byron Local Aboriginal Land Council (TBLALC) would like to inspect and ensure the land has not been cleared yet.

Action: Invite Tim Robins to attend the June AAC meeting.

O18 Hundred Hills development at Murwillumbah

Des Williams advised that a site monitor needs to be present when the ground is cleared.

Action: Invite Tim Robins to attend the June AAC meeting.

O19 River Heights Tourist Park at Kirkwood Road, Tweed Heads South

Action: Invite Tim Robins to attend the June AAC meeting.

O20 Guriguru - Jack Evans Open Space - Application for tender

Anne McLean advised that Council put out a tender for interested persons to provide entertainment / activities around the open space. Guriguru has submitted a tender and has been requested to provide a Certificate of Aboriginality.

This item can be closed and reopened if the Applicant submits a Certificate of Aboriginality.

Action: Anne McLean is to circulate the Festivals and Events Policy to all AAC Members.

O21 Working for Barrels
Close this item.

O22 Kirkwood Road Project

AAC members are to suggest sites for reforestation at the next AAC meeting. Anne McLean advised that she will invite Jason Young to attend an AAC meeting to discuss this.

Action: Invite Jason Young to AAC meeting.

O23 Designated Aboriginal Positions

Anne McLean circulated a list of names. Human Resources will use the approved list to circulate job alerts within the Aboriginal community.

Action: AAC are to review the list and bring changes to the next meeting.

O24 Aboriginal Development Officer

Fred Gesha has been visiting local Aboriginal organisations. Anne McLean advised that Fred can be AAC's conduit within Council. Jackie McDonald asked if Fred can assist the community in sourcing funding for projects. Fred said yes. He will compile a list of funding bodies and circulate to AAC.

This item can be closed.

Action: Fred Gesha is to compile a list of funding bodies and circulate to AAC.

O25 Aboriginal Development Officer

Fred Gesha has not been introduced to Councillors yet but this will happen in the near future.

O26 Tweed City Shopping Centre Due Diligence Assessment

Des Williams has undertaken a site inspection.

Action: Invite Tim Robins to attend the June AAC meeting.

O27 Churaki Stone Sculpture

Jackie McDonald tried to call Chris Robbins but there was no answer. This item is deferred to next meeting.

O28 School World Environment Day (also Inwards Correspondence 4)

Anne McLean advised that this is taking place on Tuesday 5 June at Pottsville Environment Centre. A volunteer is invited to conduct activities of interest to primary school children. There will be three sessions in the morning and three in the afternoon.

Anne McLean may be able to fund 50% of the attendance fee in her budget. Jackie McDonald suggested that the NSW Department of Education & Communities (DEC) should have funding. Jackie suggested Anne McLean contacts Sascha Piotrkowski from Council and Darlene Arkinstall from DEC in relation to the event. Anne could also contact Colin Appo.

Action: Anne McLean is to liaise with Sascha Piotrkowski regarding funding for the event and the role of DEC. DEC representatives that can be contacted in relation to the request are Darlene Arkinstall and Colin Appo.

O29 ProWake

The Applicant has requested additional time to lodge a new application. This item is on hold until after Council's June meeting.

O30 Charles Street Primary School, Pottsville

Action: Invite Tim Robins to attend the June AAC meeting.

O31 Charles Street Primary School, Pottsville

Action: Invite Tim Robins to attend the June AAC meeting.

O32 Banora Point Bypass Project

Rick Nolan advised that he was full time mentor on this project for indigenous trainees. It was noted the Indigenous Employment Plan for the Banora Point Upgrade was instigated through the Aboriginal Focus Group and Employment Plus was the Job Services Australia (JSA) provider involved with the project. There were 10 Aboriginal trainees employed.

This item can be closed.

O33 Employment and training opportunities at Cobaki Lakes and Kings Forest developments

AAC members suggested the Aboriginal Development Officer work with Rick Nolan from Employment Plus and Karen Liddell from DEEWR to assist in brokering an Aboriginal Employment Strategy for Tweed Shire Council.

Des Williams noted that Employment Plus is not the only JSA provider in the Tweed and that First Sun is the only Aboriginal employment network in the area.

Anne McLean advised that it is not appropriate for Council to enter into conversations with particular JSA providers about the Aboriginal Employment Strategy. In the first instant the conversation needs to start with DEEWR representatives and senior Council staff.

O34 Council's Tender Specifications with regards to Aboriginal employment

Action: Anne McLean will arrange this meeting as soon as possible.

O35 Tweed Shire Council's Employment Strategy

Action: Anne McLean will arrange this meeting as soon as possible.

O36 Aboriginal Statement

This item is on hold.

O37 Memorandum of Understanding (MOU)

To be discussed at the next AAC meeting.

O38 Memorandum of Understanding (MOU)

To be discussed at the next AAC meeting.

O39 Memorandum of Understanding (MOU) and Reconciliation Action Plan (RAP)

To be discussed at the next AAC meeting.

O40 Mandatory Code of Meeting Practice and cultural awareness training for newly elected and returning councillors

To be discussed at the next AAC meeting.

O41 Wooyung

This item is on hold.

O42 Mooball Residential Rezoning

Des Williams advised there were no sites of significance in that area.

Action: Invite Tim Robins to attend the June AAC meeting.

O43 Cobaki Lakes

Action: Invite Tim Robins to attend the June AAC meeting.

O44 Cobaki Lakes

Action: Invite Tim Robins to attend the June AAC meeting.

O45 Cobaki Lakes

Action: Invite Tim Robins to attend the June AAC meeting.

O46 Cobaki Lakes

Action: Invite Tim Robins to attend the June AAC meeting.

O47 Tringa Street subdivision

The Applicant has withdrawn their application but may submit another one.

This item can now be closed and reopened when new information is received.

O48 Limpinwood Telstra Tower Cultural Heritage Assessment

Ian Fox and Tim Gall will discuss this afternoon.

O49 Limpinwood Telstra Tower Cultural Heritage Assessment

Ian Fox and Tim Gall will discuss this afternoon.

O50 Aboriginal Cultural Heritage Management Plan (ACHMP)

Ian Fox and Tim Gall will discuss this afternoon.

Agenda Item

A1 NAIDOC Week (Suspended for next Agenda Item)

A2 Memorandum of Understanding - Fred Gesha (Tweed Shire Council)

Deferred to June AAC meeting.

A3 Jane Lofthouse (Tweed Shire Council)

(a) Tweed Coast Estuaries Catchment Management Plan

Jane advised that Council is reviewing the existing Tweed Coast Estuaries Catchment Management Plan. The previous Plan was completed in 2004 and only focussed on estuaries. Now Council is looking at the complete catchment.

This project will involve engaging land owners. This project includes water quality assessment and studying how water quality changes due to a change in land use. Local people will be asked about places they know well and what changes they have noticed in previous years.

Jane Lofthouse advised that the Draft Plan will be circulated for comment to the community within the next three to four months.

Jane advised that she wants AAC to be aware that this project is happening and provide input either now or at draft stage. Jane advised that this study encompasses Cudgen, Cudgera and Mooball Creeks, and does not include the Tweed River.

Des Williams advised that an Aboriginal Fishing Study was done by Southern Cross University.

Action: Fred Gesha is to send a copy of the Aboriginal Fishing Study to Jane Lofthouse.

The Draft Plan will come back to AAC for comment and input. Tom Alletson will speak to AAC with a snapshot of the condition of creeks now and realistically what we can aim for.

(b) Kingscliff Beach nourishment

The Coastline Management Plan (CMP) recommended nourishment of Kingscliff Beach by extraction of sand from the Area 5 sandbar in the Tweed River. Area 5 was identified in 1995 and runs from Barney's Point Bridge to Rocky Point. It is proposed that up to 600,000 cubic metres of sand will be pumped from the sandbar over time. The preferred method is to use a cutter suction dredge and pump sand directly onto the beach from the dredge. So far Council has discussed the proposal with commercial fishermen, boaters and other interested groups. No objection to the proposal has been raised so far and the dredge design is such that it does not impact on sea grass in the locality of Area 5.

In terms of the sand extraction the preferred option is for a pipeline to run between Wommin Lake and Wommin Lagoon. This will be a hard plastic 400mm pipe which will be temporary. It will float on the river, cut across Fingal peninsular and run along the back of the beach to Kingscliff. There will be several pump stations along the beach. The pipe at the back of the beach will cause limited short-term damage to the dune vegetation. In terms of the sand quality, the particle size is consistent though it will be dark. The colour will lighten over time with exposure to sun and tides.

The whole process will take four months. One month will be spent laying the pipe and it will take three months to pump the sand onto the beach. The pipe will then be removed.

The Environmental Impact Statement (EIS) will consider all impacts including Aboriginal Cultural Heritage Assessment. The Draft EIS is due to come out in August and will cover the dredging, laying of pipes and pumping of sand. The intention is that the works would be undertaken in June, July and August when weather is suitable. EIS and related approvals process could take up to two years.

The Lands Department owns that land and Council need to pay them royalties to dredge the sand. Jane asked if any AAC member has a major issue or concern that they advise Jane soon.

Jackie McDonald raised the issue of Native Title and asked if disturbance of the river bed extinguishes Native Title. Jane advised because Crown lands have given an Investigative Licence to Council they should know the impact on native title. This is to be confirmed. Jackie advised if that activity leads to extinguishment of native title, AAC would be concerned.

AAC discussed the way imported fill is used when covering exposed midden sites and noted that estuarine material is sometimes used. When this is the case it makes it difficult to determine the difference between cultural material and estuarine material. Jane asked Ian Fox if there are any guidelines on this to assist Council. Ian advised it is a case by case basis. When doing the Aboriginal Cultural Heritage Management Plan Converge can highlight areas in which there are known cultural sites that are prone to erosion impacts for Council's attention. Ian suggested when doing mapping activity any potential areas are flagged with extra identifier.

A1 NAIDOC Week

(a) Request for funding for NAIDOC Week celebrations

Fred advised that last year Council made a financial contribution to NAIDOC Week. Through a recommendation of the AAC \$450 was given to the Koori Kids Schools Initiative and \$2000 was donated to TACSL towards the organisation of NAIDOC week activities. Fred read out a letter requesting a donation from TACSL. This letter also requested that Fred Gesha assists them in helping plan the NAIDOC Week celebrations.

RECOMMENDATION:

Moved: Councillor Dot Holdom

Seconded: Jackie McDonald

That in perpetuity funding be provided (subject to acquittal by Tweed Aboriginal Co-operative Society Limited) by Tweed Shire Council to the value of \$2000 per annum to be made available to the NAIDOC Week fund via the NAIDOC Committee. A report is to be brought back from Council officers that gives consideration to a review period and a percentage increase no greater than the CPI.

RECOMMENDATION:

Moved: Desrae Rotumah

Seconded: Des Williams

That as per the letter request dated 19 April 2012 from Tweed Aboriginal Co-operative Society Limited, the AAC agree to the Community Services Officer - Aboriginal Development's support in assisting the NAIDOC Week celebrations.

(b) "NAIDOC Week 2012"

Koori Kids provide a range of promotional items such as balloons and wristbands for use in NAIDOC week. Last year Council purchased promotional items for NAIDOC week for distribution over the course of the week.

(c) "NAIDOC Week School Initiative Competitions"

Last year Council provided \$450 in funding to support the initiative. Jackie McDonald suggested emailing Colin Appo to discuss the initiative and gauge his support for it.

Action: Email Colin Appo to discuss the "NAIDOC Week School Initiative Competitions".

A4 Jack Evans Boat Harbour and Green Teams Alliance - Stewart Brawley (Tweed Shire Council)

Stewart Brawley advised that Green Teams Alliance (GTA) is looking for opportunities to take up a maintenance contract in Jack Evans Boat Harbour. Council has been managing the maintenance for approximately one year to get a handle of what the requirements are. Under the Local Government Act Council are required to undertake a competitive tender process. Stewart advised that Jack Evans Boat Harbour would be too small for GTA to solely maintain; other areas would need to be offered in the contract to make it financially viable.

Des Williams advised that GTA has not been in contact with AAC recently as they are looking after other projects at the moment.

Discussions need to be reopened with GTA to decide whether to move forward or not. Stewart advised that GTA must be able to respond to a competitive tender.

Jackie McDonald asked Stewart if he was aware of the Heritage Walls under the viaduct at the Banora Point upgrade that had recently been tidied up.

Stewart noted that generally Roads and Maritime Services' construction projects provide for a period of maintenance following the end of the contract. After that period is up the maintenance contract is open for tender. This could be another job for GTA.

Jackie suggested that any maintenance around Joongurrabah / Razorback could also form part of a contract for the GTA.

RECOMMENDATION:

Moved: Councillor Dot Holdom

Seconded: Aunty Joyce Summers

That Council writes to Roads and Maritime Services enquiring how the area underneath the new viaduct at Banora Point will be maintained in the long term.

A5(a) Aboriginal Cultural Heritage Management Plan (ACHMP) Memorandum of Understanding (MOU) - Ian Fox and Tim Gall (Converge)

Tim Gall distributed a Draft MOU. Tim also distributed the PowerPoint slides from the presentation that Converge made to AAC in a Workshop in March.

Tim advised the main purpose of Converge attending AAC's meeting is to review the Draft MOU and seek feedback from AAC regarding same. Tim advised it is fine to copy and distribute the Draft MOU to other Aboriginal groups. Robyn Eisermann from Council is happy with the Draft MOU though it will still need to be referred to management.

Ian advised that this MOU is between three participants, being AAC, Council and Converge. AAC will liaise with the wider community to seek their input into the project. Ian is happy to amend the MOU if AAC feel that specific community groups should be named.

Tim advised that with regard to Clause 6: "Communication Protocol", Converge will be coming to AAC meetings for the duration of the project to provide a monthly update.

Tim advised that Clause 7: "Aboriginal Community Nominee" is important. When doing fieldwork, Converge would like to work with someone from the community to assist and advise whether it is appropriate to visit certain sites. A lot of places are not recorded or

named and are on private property. The Aboriginal Community Nominee will be paid for their time. Different people may be used for different places. Converge asked if AAC could submit nominations of interested persons at the June AAC meeting.

Tim discussed Clause 8: "Training" and advised that the Aboriginal Community Nominee will be provided with training.

Action: AAC are to provide Converge at the June AAC meeting with names of people interested in being an "Aboriginal Community Nominee" for the ACHMP.

Clause 9: "Restrictions on knowledge of Aboriginal cultural sites and places" acknowledges that the call is entirely AAC's. It is up to the community and AAC to identify restricted places. Converge will take the advice of AAC and the person nominated on AAC's behalf.

Tim discussed Clause 10: "Access Arrangements". Through monthly reporting to AAC, Converge can advise what they are doing, when and where.

Tim alluded to Clause 11: "Keeping place (Data storage)". Converge recognise that some information will be sensitive. They are not anticipating that information will be copied or made readily available. Any information collected will be given the same due care as the Bundjalung Mapping Project and will not be made publicly available with any of the documents. Secure data and storage facilities will be maintained.

Clause 12: "Publication and Promotion" has already been worked on with TBLALC. Council were supportive of information about the project being included in TBLALC's newsletter.

Clause 14: "Amendment and termination of Memorandum of Understanding" is straightforward.

Clause 15: "Application of law (State, Federal, and Aboriginal traditional and customary lore)" acknowledges that state and federal laws apply to the process of the project. Traditional customary lore applies to cultural information and how that is to be recorded. Advice for that comes from the nominee and AAC.

Ian advised that Converge would be happy to meet with local Aboriginal organisations and explain what the mapping is, how it will work and why the ACHMP is being done.

Jackie McDonald referred to Clause 11: "Keeping place (Data storage)" and the last comment about the report and maps being distributed to participants. Jackie wants to know how we control how information is interpreted. Ian replied that no one is given the information that made Converge go to a site in the first place. Converge will follow consultation guidelines that the Office of Environment and Heritage (OEH) provide.

Ian noted that in terms of Due Diligence Assessment, Council have already required that that anyone who wishes to apply for a change of land use will be obliged to follow Council's guidelines. Council's role is to make sure they ask questions of prospective developers to ensure they have correctly met Council's requirements, for example they must have a formal Cultural Heritage Assessment undertaken. The ACHMP mapping will complements state legislation. Ian advised that a Due Diligence Assessment can be done without community consultation but this is at the developer's risk. There is a significant penalty if a developer goes ahead with development on a known cultural heritage site.

Aunty Joyce Summers asked if all Councillors will be aware of the ACHMP. Jackie McDonald suggested that Council staff will need ongoing training. Ian advised that at Ballina Shire Council outdoor work staff were trained on cultural heritage and their responsibilities under legislation. Participating staff were required to sign an attendance sheet and they received a certificate of completion. Ballina Shire Council is also making sure external contractors working on Council sites have cultural awareness training. The Local Land Council then provides training to staff.

Jackie asked how regular training will be incorporated at Tweed Shire Council.

The following recommendation was moved.

RECOMMENDATION:

Moved: Councillor Dot Holdom

Seconded: Aunty Joyce Summers

That Council undertakes mandatory cultural heritage awareness training biannually for all staff and new appointments and a protocol be developed and provided to all contractors undertaking any form of Council activities.

Ian and Tim will attend AAC meetings to give update and get feedback.

A recommendation from the Cultural Awareness Induction at the Kirkwood Road Project was for photographs of relics to be taken, enlarged and put up on the site office walls to assist with identification of relics.

Action: Anne McLean is to liaise with David Hannah to ensure enlarged photographs of relics are put up on the site office walls at the Kirkwood Road Project.

(b) Limpinwood

A second field survey for the cable route will take place on Wednesday 9 May.

Inwards Correspondence

IC1 Local Government Aboriginal Network Conference

Anne McLean advised that the Local Government Aboriginal Network Conference is taking place in Grafton from 15 to 17 August. Fred Gesha will be attending. Anne advised that David Oxenham indicated that if someone from AAC wants to attend, they can do so.

Action: Members of the AAC are to advise at the next AAC meeting who will attend the Conference.

IC2 Green Cauldron Tours (Fred Gesha)

Fred advised that he has received a Business Plan from a tourism operator in Byron Bay. They are proposing to provide tours from Byron Bay to Wollumbin and speak to local Aboriginal people on the way. Jackie advised that any request to access Wollumbin must be sent to the Wollumbin Committee.

Action: Fred Gesha is to forward email from Kristina Drapes to Josh Slabb for consideration by the Wollumbin Committee.

IC3 "Investing in Sustainable Futures" Working Group

It was agreed to close this item until further information becomes available.

IC4 School World Environment Day

This was discussed during the Outstanding Matters section of the meeting earlier today.

IC5 Permission to plant trees at Cudgen Burial Ground

Tweed South Sea Islander Association has sent a letter to Council requesting permission to plant trees in and around Cudgen Burial Ground. Committee members expressed concern at the proposed plants of coconut plants, hibiscus and frangipani. Members were concerned that plantings are not native. AAC would prefer that native trees and plants are used; however they have no major objection and will accept whatever decision Council makes.

Action: Anne McLean is to advise Stewart Brawley of AAC's opinion.

Outwards Correspondence

Nil.

General Business

GB1 Fingal Head Cemetery Vandalism

Investigation into the matter is progressing.

GB2 Cultural Exchange Program - Councillor Dot Holdom

Councillor Holdom advised that Kingscliff High School have been approached to undertake a cultural exchange program with Elliott in the Northern Territory for children up to Year 10. Many children in Elliott are Alcohol Syndrome affected. Possibly only two children would participate at a time. Aunty Joyce noted the program would need to operate on a reward basis.

GB3 ATSI Issues Paper Update - Fred Gesha (Tweed Shire Council)

Fred Gesha advised that an Aboriginal Issues Paper was developed in 2001 to inform the development of Council's Social Plan. Research has not been refreshed since that time so a new community consultancy will need to be done. Fred asked if AAC members would prefer Council to use an Aboriginal or non-Aboriginal consultancy. Fred noted that he has previously employed Aboriginal researchers from Griffith University. Desrae Rotumah asked if Fred can look into Aboriginal consultants and bring information back to the next AAC.

Action: Fred Gesha is to email the Draft Issues Paper Update to AAC and compile a list of Aboriginal consultants for consideration by the AAC.

GB4 Heritage Walls [New Item]

Wording for the plate on the Heritage Walls under the Banora Point viaduct was discussed. RMS provided the draft wording to Jackie McDonald which she read to the Committee.

Action: Jackie McDonald will amend the wording and circulate to AAC for comment. Jackie will also include the definition of a midden in the wording.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 1 June 2012.

The meeting closed at 3.36pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

A1 NAIDOC Week

(a) Request for funding for NAIDOC Week celebrations

Nil.

A4 Jack Evans Boat Harbour and Green Teams Alliance

Nil.

A5 (a) Aboriginal Cultural Heritage Management Plan (ACHMP) Memorandum of Understanding (MOU)

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 NAIDOC Week

(a) Request for funding for NAIDOC Week celebrations

That Council provides annual funding to the Tweed Aboriginal Cooperative Society Pty Ltd of \$2000 adjusted by CPI for NAIDOC Week celebrations.

A4 Jack Evans Boat Harbour and Green Teams Alliance

That Council writes to Roads and Maritime Services enquiring how the area underneath the new viaduct at Banora Point will be maintained in the long term.

A5(a) Aboriginal Cultural Heritage Management Plan (ACHMP) Memorandum of Understanding (MOU)

That Director Community and Natural Resources and General Manager hold discussions with the Aboriginal Advisory Committee about options for cultural awareness training within the organisation.

70 [SUB-TRRM] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 17 May 2012

Venue:
Coolamon Cultural Centre

Time:
2:00pm

Present:
David Oxenham (Director Community & Natural Resources); Judy Kean (Museum Director); Max Boyd (Community); Gary Fidler (Community); Faye O'Keeffe (Community); Joan Smith (Tweed Heads Historical Society); Denise Garrick (Tweed Heads Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Mary Lee Connery (Uki & South Arm Historical Society); Beverley Lee (Murwillumbah Historical Society).

Apologies:
Cr Barry Longland; Sandra Flannery (Community); Carol Piggott (Murwillumbah Historical Society);

Minutes of Previous Meeting:

Moved: Mary Lee Connery

Seconded: Helena Duckworth

RESOLVED that the Minutes of the Tweed River Regional Museum Advisory Committee meeting held Thursday 15 March 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

1. Item from Meeting held 15 March 2012

2. Murwillumbah Historical Society Report:

Max Boyd indicated that in relation to the thunder egg collection, Frank Rowe had offered to assist with his knowledge of these specimens and the activities of the Gem Club and that Peter Solomon, a past geology student from the University of Queensland had completed a theses on the subject.

Museum Director, Judy Kean, will contact Frank Rowe with regards to this.

Reference was made to this at the meeting of 17 May 2012:

Frank Rowe has been interviewed by Museum staff, and this is currently being transcribed. Frank will be interviewed again when he has recovered from eye surgery.

2. Item from Meeting held 15 March 2012

3. Tweed Heads Historical Society Report:

Joan Smith asked whether Tweed Shire Council or RSL clubs were planning any activity to mark the 100th anniversary of the outbreak of WWI in 2014.

Barry Longland indicated that he would have an opportunity to check with the RSL and others during Anzac Day celebrations.

Max Boyd requested that Council's Festivals and Events Coordinator contact RSL branches regarding any activities.

Museum Director, Judy Kean, will contact Council's Festivals and Events Coordinator with regards to this.

Reference was made to this at the meeting of 17 May 2012:

The Museum Director, Judy Kean, has spoken with Council's Festivals and Events Coordinator, Barbara Allen.

Tweed Shire Council will be involved in the WWI anniversary celebrations.

Barbara Allen is waiting for information from the Federal Government; when this arrives she will contact Judy Kean for further discussions.

3. Item from Meeting held 15 March 2012

6. Historical display at Bray Park Water Treatment Plant:

Carol Piggott requested copies of information based on Ron Johansen's research used at the new water treatment works.

David Oxenham agreed to have photographs taken and to send these, together with any other relevant material developed for the display, to Carol.

Reference was made to this at the meeting of 17 May 2012:

The material listed above was sent to Carol Piggott, however was not used in the dedication to Ron Johansen.

4. Item from Meeting held 15 March 2012

7. Collecting contemporary material:

Max Boyd raised the issue of collecting contemporary material.

Museum Director, Judy Kean, agreed that this is an important issue. Once a number of the immediate collection relocation and building related projects were underway, this issue should be brought up at future meetings and formally discussed.

The Committee discussed the importance of recording the major road construction at Sexton Hill. Museum Director, Judy Kean, agreed to contact the company responsible for the works about obtaining a selection of material from their company archive to complement existing material held by TRRM about road/building construction in the Shire.

Joan Smith agreed to send information about a recent enquiry regarding old rock walls on the site.

Reference was made to this at the meeting of 17 May 2012:

Joan Smith has sent the information listed above to the Museum Director, Judy Kean. Judy Kean has contacted the company undertaking the Banora Point upgrade to discuss their archives. A meeting is planned with their PR staff in June, when Judy will look at their archives and decide what action is required by TRRM.

Agenda Items:

5. Museum Director's Report

17 May 2012

Museum building and development

Collections store

The concrete slab has been poured. Further work (casting of concrete tilt panel walls) is taking place off site. Wet weather has had some affect on work at the site.

TRRM Murwillumbah

Development Application 12/0035 was approved on 28 March. The process of identifying electrical/lighting, mechanical, hydraulic and structural engineering sub-consultants has begun. Once these are in place the project will move into the detailed design phase.

Closure of the museum and alternative accommodation for the Historical Society

The Murwillumbah Historical Society has now fully relocated to 33-35 Kyogle Road, Bray Park. Society office hours at this new location will be:

9.00 am - 4.00pm, Wednesdays and Fridays

The contact email address for the Society is:

trhs@better.net.au

The provision of a new 'lead-in' for the phone services at Bray Park was completed on Friday 4 May. The Historical Society is now perusing a landline connection and will advise their new contact number once connected.

TRRM Tweed Heads

Major works to replace the ceiling in the Old Courthouse building will commence on May 16. Contractors have estimated that works will take approximately 3 weeks. Tweed Heads Society members have elected to close the Court House and the RSL Hall to the public while work is being completed. The TRRM Tweed Heads will therefore be closed: Wednesday 16 May - Sunday 17 June (inclusive)

The problem of termite activity in Boyd's Shed is still being treated and on advice of Council officers the Shed is currently closed to the public.

TRRM Flagstaff

Nothing further to report since January meeting.

Collections

Assessment and Relocation project, Murwillumbah

The project is progressing well. Another successful workshop was held on April 14 focusing on packing and storage.

Vital Statistics	Cumulative as @ 8/5/2012	
Number of volunteers and volunteer hours dedicated to the project	11volunteers approx 686 hours	At the moment volunteer teams are working Tuesdays, Wednesdays and Thursdays. This is likely to increase as more space is available and packing and other tasks can begin.
Number of objects assessed	1968	This includes tagging and visual assessment on site; checking collected information against databases and other files, and entry of data into detailed 'Relocation spreadsheet'
Number of objects photographed	1700	
Number of objects/boxes packed	5 large items external to Museum relocated. Approx 20 large items from inside display cleaned and relocated to container for pick up on 10 May.	Packing commenced on 4 May, verbal update at meeting

Identifying items for possible de-accessioning

The detailed data collected is helping to identify those objects that are without an identifying number, and/or donor names or other information associated with them and/or are in poor condition. MD will continue to compile information about items that fall into these categories. The TRRM Collection Policy has detailed criteria and procedures for de-accessioning and disposal and these will be observed.

The Collection Policy requires that any recommendation to de-accession an item is formally endorsed by the Museum Advisory Committee.

A number of proposed de-accessions are included with this report.

Collections Management System (CMS)

Vernon Systems has been appointed to supply the CMS. Museum staff and volunteers are working on identifying key data for transfer. Contract documentation has been prepared. Detailed discussion with Vernon will commence week beginning 14 May.

Friends of the TRRM

Dates for Friends Vintage Film fundraiser have been confirmed:

- Thursday May 3, Regent Cinema Murwillumbah, 6pm for 7pm
- Saturday June 2, Cinemax Kingscliff, 10am
- Friday June 8, Visions Room, Twin Towns Club, 10am

Further information available from Janet Swift 0412821642



Staff update



Kirsty Andrew is working full time in the position of Museum Assistant until 29 June.

Erika Taylor, part time Museum Collections Assistant, began work on Monday 30 April and will work primarily on CMS and Murwillumbah collection relocation until June 29.

PROPOSED ACQUISITIONS

Two items recommended for acquisition (Railway Plan and Banana Jim) have been in the keeping of the Museum for some time, but do not appear in any accession records. It is possible that as work continues on the collection assessment project at Murwillumbah, and on implementation of the new Collection Management System (CMS) further items fitting this category will be identified.

ARTIFACT	DESCRIPTION & DATE	DONOR	REPORT	IMAGE
5 editions of 'Mindreader' newsletters	Five editions of the 'Mindreader' newsletter, dating 2002 to 2005, and includes issues 4, 7, 8, 13 and 16. The newsletters are A4 black and white, text with images, and vary in length from 4-12 pages. It was a free, independent satirical newspaper that was produced by locals Trish Mann and Norman Ingram. 210mm x 295mm 2002 – 2005	Mary Connery Lee	Strong provenance. Relates to themes of people and culture and land development and environmental issues. Also as a locally made production has enormous interpretative potential. The collection of 'Mindreader' newsletters needs only three additional issues to represent a complete set. Outstanding issue numbers include: Issue No. 3 (Nov 2002), Issue No. 10 (Jan 2004), and Issue No. 11 (March 2004).	
Lismore to The Tweed Railway, Proclaimed Plan, 1892	12metre long linen plan of the Lismore to The Tweed Railway, Proclaimed Plan, Part 3, featuring Mullumbimby to Murwillumbah. Handwritten text on the plan reads "The signature and seal of the Constructing Authority were affixed hereto this 8 th day of August 1892 in the presence of (?) Lachlan". The item has been in the care of the Museum for a significant period but had not been formally accessioned	Frank Butler	Relates to themes of the built environment – towns and villages; and land development.	

	into the collection. 1200cm x 66cm 1892			
Fibreglass costume of 'Banana Jim'	<p>Fibreglass costume of 'Banana Jim', worn in the annual Tweed Valley Banana Festival. This costume represents the second 'Banana Jim' costume worn in the Festival since 1955.</p> <p>The item has been on display at the Museum at Murwillumbah for some time, but had not been formally accessioned into the collection.</p> <p>190cm x 40cm x 37cm c 1960s</p>	Phil Taylor	<p>Strong provenance. Relates to themes of industry – agriculture & tourism; people, events and culture; and locally invented and made. Object itself holds an iconic status with locals.</p>	
School Broadcasting book of 1945	<p>School Broadcasting book, handcovered, and used by Bob Kennaugh when he attended school at Brays Creek in 1945. Inside cover reads 'The Australian Broadcasting Commission. School Broadcasts 1945. From Stations 2FC, 2NA, 2NR, 2CR and 2CY. Published by Australian Broadcasting Commission'. The book has 160 pages.</p> <p>210mm x 135mm 1945</p>	Bob Kennaugh	<p>Has strong provenance and relates to themes of children's history and education. Also, the handmade cover, using turpentine and water to create a unique design, relates to themes of locally invented, made and improvised objects.</p>	


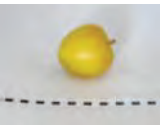

PROPOSED DE-ACCESSIONS






As outlined in the Museum Director's report to the March 15 Museum Advisory Committee, the detailed data being assembled through the Collection Assessment Project is helping to identify those objects that are:

- without an identifying number, and/or
- without donor names or other information associated with them; and/or
- in poor condition, or
- do not fit TRRM Collection Policy criteria.

However, there are other categories of item which also require consideration for de-accessioning. This is necessary where:

- Original paperwork is ambiguous regarding whether the item was intended as a donation or a long term loan.
- An accession number has been erroneously applied. e.g. to a loan item, or to an item which has not, in fact, been formally acquired (that is, has not been recommended by the Senior Museum Curator/Museum Director or been formally endorsed by the Advisory Committee).

ARTIFACT	DESCRIPTION & DATE	DONOR	REASON/ CRITERIA	DISPOSAL METHOD	IMAGE
Oil painting by Nutter Buzacott, TH2004-264	Oil painting by Nutter Buzacott, referred to as both "Old Taranora Cemetery" and "Old graves at Chinderah". c. 1964	Lee Dunn	This painting was given an accession number, listed on the Museum's database, and was part of the transfer of items that occurred on implementation of the MOU in 2004. However, based on collection paperwork and correspondence between the Tweed Heads Historical Society and Lee Dunn in 1991, it appears the original intent for the Buzacott painting was a long term loan to the Tweed Heads Historical Society. THHS President has confirmed this. Therefore, to remove any ambiguity regarding the status of the painting, it is recommended the painting be formally de-accessioned, and returned to the donor, Lee Dunn.	Return to donor, Lee Dunn.	
M99-127	19 pieces of plastic fruit, given the same accession number as the bowl they sit in.	George Fletcher	Used as props in kitchen display room. Little or no relevance to the Collection Policy and Acquisition criteria. Little or no significance.	1. Offer to donor 2. Sell at auction to raise funds	
M91-009B	Flowers, bunch artificial silk. Plastic rose.	John Dolan	Used as prop in kitchen display room. Little or no relevance to the Collection Policy and Acquisition criteria. Little or no significance. In poor condition.	Destroy	
M00-064D	Nabalco Health, Safety & Environment Report 1999 (NT	George Fletcher	No provenance to Tweed. Little or no relevance to the Collection Policy and	1. Offer to donor 2. Destroy	

	mining company)		Acquisition criteria. Little or no significance. Information will be available for reference through other sources if required.		
M00-064A	Poster - Walyamirri Aboriginal role in northern Australia - mine-land reclamation	George Fletcher	No provenance to Tweed. Little or no relevance to the Collection Policy and Acquisition criteria. Little or no significance. Item will be available for reference through other sources if required.	1. Offer to donor 2. Destroy	
NK034-98 (tin) TO102-99 (bread)	Lacquered bread in tin	Tin - Norma Johansen Bread - Unknown	Used as prop in kitchen display room. Bread is decaying and disintegrating and is harbouring pests, therefore unable to safely store or manage the object. Decaying bread has damaged the tin beyond repair.	1. Inform donor 2. Destroy	
M98-086U	Black & Decker hand held vacuum cleaner, Super Dustbuster model.	Jim McCann	The item is disintegrating. Little or no significance. Inability to safely store and manage the object.	Destroy	
M01-001	Carpet square	Budd's, Murwillumbah	Has been used as a front door mat at the Museum. Item should not have been accessioned.	Destroy	

Recommendation: That the Museum Director's report be received and noted by the Committee, and the proposed acquisitions and deaccessions be accepted.

Moved: Beverley Lee

Seconded: Denise Garrick

RESOLVED that the Museum Director's Report be received and noted by the Committee, the proposed acquisitions and deaccessions be accepted, and that the standard 90 day cooling off period for deaccessions be waived in the case of the Nutter Buzzacott painting.

Business Arising from the Museum Director's Report

Judy Kean outlined to the Committee that there will be many more deaccessions arising from the Assessment and Relocation Project at TRRM Murwillumbah.

Denise Garrick wished to commend Judy Kean on her management of the various aspects of the Museum project. Judy acknowledged the contribution of Museum staff, Kirsty Andrew, Kathryn King and most recently Erika Taylor to achieving project milestones.

6. Murwillumbah Historical Society Report (Attachment 1)
Report was tabled, circulated and read out.

Moved: Beverley Lee

Seconded: Mary Lee Connery

RESOLVED that the Murwillumbah Historical Society Report be noted by the Committee.

Business Arising from the Murwillumbah Historical Society Report

On behalf of Council and the Advisory Committee, David Oxenham expressed recognition and appreciation for Ron Johansen's work for the Historical Society and the community.

Moved: Max Boyd

Seconded: Gary Fidler

RESOLVED that the following recommendation be made to Tweed Shire Council:

RECOMMENDATION:

That Tweed Shire Council formally writes to Ron Johansen, OM, to express its appreciation for the outstanding work Ron has performed for the community through the Tweed River Historical Society and later the Murwillumbah Historical Society.

Judy Kean, Museum Director, will arrange for the Honour Boards at TRRM Murwillumbah to be taken down so that they can be updated.

David Oxenham offered his congratulations to Max Boyd and Tony Clark on their appointment to the Committee of the Murwillumbah Historical Society, as President and Vice-President, respectively.

7. Tweed Heads Historical Society Report (Attachment 2)
Report was tabled, circulated and read out.

Moved: Joan Smith

Seconded: Denise Garrick

RESOLVED that the Tweed Heads Historical Society Report be noted by the Committee.

Business Arising from the Tweed Heads Historical Society Report

Joan Smith, President of Tweed Heads Historical Society, offered her congratulations to the Committee of Murwillumbah Historical Society.

David Oxenham, on behalf of Tweed Shire Council, offered congratulations to the new Committee of Tweed Heads Historical Society.

Max Boyd also offered his congratulations to Joan Smith and the Committee of Tweed Heads Historical Society.

8. Uki and South Arm Historical Society Report (Attachment 3)
Report was tabled, circulated and read out.

Moved: Helena Duckworth

Seconded: Mary Lee Connery

RESOLVED that the Uki and South Arm Historical Society report be noted by the Committee.

Business Arising from the Uki and South Arm Historical Society Report

Max Boyd offered his congratulations to the Committee of Uki and South Arm Historical Society.

David Oxenham, on behalf of Tweed Shire Council, offered congratulations to the new Committee of Uki and South Arm Historical Society.

Discussion followed on History Week, in September 2012, and how the Societies were participating in it. The theme this year is 'Threads' and Tweed Heads Historical Society is having a display of clothing.

General Business:

9. Murwillumbah Redevelopment Sub-Committee proposal

A background paper outlining this proposal was sent with the Agenda. It is proposed that a small sub-committee of the TRRM Advisory Committee, representing community and Council stakeholders, could provide timely advice and guidance to the next step of the Murwillumbah building project: the process of detailed design of all aspects of the building and submission of documentation required for construction approval.

David Oxenham expanded on the background to the proposal and where the Murwillumbah Redevelopment Project is currently at.

David explained that previous consultation on this project involved the Murwillumbah Historical Society but not the Advisory Committee, and as the Committee's role is to advise Council they should be involved in the consultation process.

The Committee agreed that the Sub-Committee proposal was a good idea, and discussion followed on possible members, and the role of the Sub-Committee and its members.

Members will be expected to take information back to their networks to ensure that all involved are provided with accurate and timely updates.

A meeting schedule will be proposed, but there will be times when unexpected meetings will be called with short notice.

Moved: Max Boyd

Seconded: Denise Garrick

RESOLVED that the Murwillumbah Redevelopment Sub-Committee be formed with the following members, drawn from the Murwillumbah Historical Society and Museum Advisory Committee:

Councillor Barry Longland (Councillor)

Max Boyd (Murwillumbah Historical Society)

Tony Clark (Murwillumbah Historical Society)

Beverley Lee (Murwillumbah Historical Society)

David Oxenham (Tweed Shire Council)

Judy Kean (Tweed Shire Council)

Gary Fidler (Friends of Tweed River Regional Museum)

Joan Smith (Community representative)

10. Friends Vintage Film Night

Gary Fidler, President of the Friends, gave details of the various showing of the vintage film events.

The Friends' Annual General Meeting will be held on Friday 1 June 2012, and there are places available on the Committee.

Max Boyd indicated that a piece encouraging membership of the Friends can be placed in the inaugural Murwillumbah Historical Society newsletter, due out in July.

11. Tweed River Regional Museum Foundation

Max Boyd provided an update on the Foundation.

Discussions are still continuing with Robert Parsons, who is providing pro-bono legal advice to the Foundation in their application for Deductible Gift Recipient Status.

Max Boyd has provided Robert with a copy of the publication "Historical manuscript of the Tweed" by Denning, and a copy of Kylie Winkworth's Report on the Museum project, so that Robert can include historical background in the application.

Next Meeting:

The next meeting of the Tweed River Regional Museum Advisory Committee will be held Thursday 19 July 2012 at 2:00pm.

The meeting closed at 3:15pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

6. *Murwillumbah Historical Society Report*

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

6. *Murwillumbah Historical Society Report*

That Council formally writes to Ron Johansen OAM, to express its appreciation for the outstanding work Ron has performed for the community through the Tweed River Historical Society and later the Murwillumbah Historical Society.

Attachment 1

**TRRM MANAGEMENT ADVISORY MEETING AT COOLAMON
ON THE 17TH MAY, 2012**

**MURWILLUMBAH HISTORICAL SOCIETY INC.
MAY, 2012 BI-MONTHLY REPORT.**

THE SOCIETY HAS MOVED TO THE BRAY PARK PREMISES (33-35 KYOGLE ROAD) AND HAS MORE OR LESS SETTLED IN. AT OUR MONTHLY MEETING YESTERDAY ONE MEMBER STATED THAT IT ALL LOOKED VERY HOMELY. TELSTRA HAS PUT IN THE NEW "LINE - IN" FOR THE TELEPHONE AND THEY SHOULD BE CONNECTING THE SERVICE LINE TOMORROW (FRIDAY). THE NEW TELEPHONE NUMBER IS (02) 6672 3337.

UNFORTUNATELY, WE DO NOT YET HAVE THE TSC'S COMPUTERS (2) FROM THE M'BAH MUSEUM'S COMPUTER ROOM IN ORDER TO INSTALL OUR NEW WEBSITE AND DO RESEARCH SEARCHS. HOWEVER THE SOCIETY IS WORKING ON LAST YEARS "BRIDGES OF THE TWEED" PHOTOS AND ARE HOPING ONCE THE PHONE & COMPUTERS ARE AVAILABLE WE CAN OPEN THE "RESEARCH CENTRE" WITH THE MINI BRIDGES DISPLAY ALONG WITH WELCOMING BACK FAMILY HISTORY VISTORS.

MEANWHILE, STAFF ARE ASSISTING JUDY BY RESEARCHING INFORMATION ON THE COLLECTION DONORS. SLOW GOING AS PAPERWORK IS AT THE MUSEUM BUT WE ARE PERESISTING WITH IT.

THE RESEARCH INQUIRIES ARE STARTING TO PICK UP AGAIN AND JOAN CUTHEL HAS COME BACK TO CONTINUE WITH THIS WORK. AGAIN HARD GOING WITHOUT COMPUTERS.

THE SOCIETY HELD THEIR AGM ON THE 18TH APRIL LAST AND WISH TO ADVISE THAT MAX BOYD TOOK ON THE POSITION OF PRESIDENT/CHAIRMAN AS RON JOHANSEN STEP DOWN FROM THIS OFFICE AFTER +/- 23 YEARS. TONY CLARK TOOK ON THE VICE PRESIDENCY POSITION. ERNIE & CAROL REMAINED AS TREASURER AND SECRETARY. WE NOW HAVE 12 MEMBERS FORMING THE EXECUTIVE BODY AND COMMITTEE OF THE SOCIETY.

I would like to move that this report be accepted.

Carol Piggott, Secretary.

Attachment 2

MAC meeting 17th May Coolamon House Tumbulgum Rd. Murwillumbah Tweed Heads Historical Society Report

Two delegates travelled to Lismore to the RAHS Zone Conference on Saturday 5th May. Uki were the hosts for this year and their guest speaker was Penny 'Watsford, her topic was "Why Books" put us in the picture of how publishing and technology has change over the years. The new RAHS CEO Marie Walsh is really working her team hard to give regional historical communities as much help as possible. In the first five minutes she asked strangers to talk to one another about their Society to each other and in the first five minutes she had an overview their main areas of concern. In the afternoon reports from most of the Societies confirmed this. The Result being our Societies have to advise the Executive Officer of the zone conference what subjects they would like included in an outreach programme and if their area would have suitable accommodation to host such and event. It would have to accommodate at least 25 people and have computer and internet access.

Tweed Heads Members Alice and Herb Lack have been involved in a car accident which put them in hospital for four days and wrote off their car. Herb was to have surgery on Tuesday for an unstable neck fracture.

Tuesday week ago we had a visit from the Duranbah School and 40 members of the Chinese Community Church from Arundel on the Gold Coast.

On Saturday 12th May we took a display to the GCCC Heritage and Craft Fair at Bundall. They supplied the marque, tables and chairs free of charge. The venue provided a great space there were some twenty marque sites then a number of bigger tents and spaces for the Army, a stage for entertainment of the 1940's style, an antique valuation venue. Antique cars and motorbikes and an animal farm and children's play area. Food stalls and coffee wagon.

Our Secretary has been working on the computer files to sort them before the new Collection Management software is installed by Council.

The Court House has been emptied in readiness for the Council works programme to address the sagging ceiling; as a result we will be closed for 4 weeks while the work is carried out. All volunteers have been advised. Some will take advantage of the time out to run away for awhile.

Our AGM was conducted yesterday and the new committee comprises

President : Joan Smith

Vice President: Denise Garrick

Secretary : Peter Bashford

Treasurer: Peter Bashford

Ordinary committee, Robyn Bensley, Jan Curtis, Denise Taylor, Robert Guthrie, Syd Miller, Robert O'Connor, Denise Taylor.

This year we had a guest speaker, Nasuven Enares a South Sea Islander born and schooled on the Tweed who has worked most of her life in Sydney and has returned to this area to retire. She will be very much involved in the event next year 2013 to mark the 150 years since the first boatload of SSI men and women were kidnapped and brought to Queensland to work as slave labour in the cotton and cane fields. When the White Australia policy was introduced in 1901 many gravated to the Tweed Valley to escape being sent back to their islands and worked and made their homes here.

The Centaur Memorial Day was held at Point Danger yesterday, the local Centaur School arranged and conducted the service in brilliant sunshine however one couldn't help but notice the fewer number of older attendees this year. Mr Martin Pash one of the two surviving members of the crew was missing this year. That is probably only the second time since the Point Danger memorial was built that he was away. Warren Keats the inaugural President of the Tweed Heads Historical Society laid the wreath on behalf of Tweed Heads Merchant Seamen.

Joan Smith
President

Attachment 3

UKI AND SOUTH ARM HISTORICAL SOCIETY INC. REPORT FOR T.R.R.M. ADVISORY COMMITTEE 17th. May, 2012 at the Coolamon Cultural Centre

Since our last meeting we have been fortunate to have Kathryn King visit us twice to explain and help us with our Items Collection. Her enthusiasm and knowledge has helped us greatly.

Our photographic exhibition to coincide with Elder's Day was titled "Faces of the South Arm" and featured old and new people who settled on the South Arm. Some of the photos were candid others more serious but the visitors loved it.

On 5th May our Society hosted the Northern Rivers Zone Conference of the RAHS at Lismore. One of our members, Penny Watsford, was the keynote speaker who spoke about self publishing books. Penny has published three and gave an excellent talk with power point demonstration of grasses and plants which were featured in her last book. We had a very informative day and enjoyed meeting the new CEO Maria Walsh who gave us lots to think about and bring back to our committee.

The opening up of our outdoor area on Uki Buttery Market Sundays is proving very popular and by doing this Esma and Jayne have helped increase our visitor numbers. From May 2011 to April 2012 941 people visited our exhibitions and office on Fridays. We are very pleased with this increase in interested people. We have also welcomed two new (younger) members to our Society. I'm sure Alan and Beth will be of great benefit to us with their skills and enthusiasm.

We have just had our Annual General Meeting and all volunteers were returned to the same positions.

We have completed photographic orders for Midginbil Hill resort and the Doon Doon Hall. Mary Lee is still chasing down information on our Butter Churn. To date it appears to be unique but research is still ongoing. Penny and Esma are continuing with the oral history interviews and Esma and Jayne have attended workshops at Southport on the same subject. Jayne and Penny have done a great job tidying up the garden and planting species mentioned in Penny's book.

We have two major events planned for the second half of the year. In August we are hosting a afternoon tea party in the Hall Park to mark our 30th birthday and in November an exhibition in conjunction with the Ukitopia Festival. Details will be revealed later on

I move that you accept my report.

Helena Duckworth. President.

71 [SUB-FMC] Minutes of the Floodplain Management Committee Meeting held Friday 1 June 2012

Venue:

Mount Warning Room

Time:

10.00am

Present:

Cr Kevin Skinner, Patrick Knight, Danny Rose, Steve Twohill, Lindsay McGavin, Stuart Russell (TSC), Toong Chin (OEH), Brian Sheahan, Simon Gregg, Kayleen Jones (SES), Felicia Cecil, Robert Quirk, Max Boyd.

Apologies:

Lutz Gaedt.

Agenda Items:

1. Presentation of Draft Tweed Valley Floodplain Risk Management Study and Plan

Consultants Sharon Wallace (BMT WBM), Drew Bewsher (Bewsher Consulting) and Paul Grech (Grech Planners) provided an outline of the draft documents.

Key findings of the study include:

- An estimated 11,700 people and 4,300 properties are affected by the 100 year ARI flood in the Tweed Valley. This increases to 41,500 people and 16,800 properties in a probable maximum flood (PMF);
- Estimated Average Annual Damages of \$22.3 million is one of the highest damage exposures in NSW;
- Climate change impacts on flooding increases the number of people and properties exposed to the 100 year flood risk by 60%, and increases damages by up to 140%.
- Raising and extension of the Tweed Heads South levee provides a good cost-benefit, by reducing damages and increasing evacuation times, provided local stormwater can be appropriately managed;
- Cumulative impact scenarios confirm that filling of Chinderah Village and the South Murwillumbah storage basin is not viable without unacceptable impacts. Other fill scenarios, including West Kingscliff provide impacts within acceptable limits;
- The purchase of industrial land to preserve the hydraulic connection between the South Murwillumbah and Condong basins is necessary;
- Scope for filling of the remaining rural floodplain outside of high flow areas is limited and requires specific development controls;
- Tweed City Centre planning strategies are generally compatible in Tweed Heads North, however proposals for intensification of residential development (mixed use) in Tweed Heads South are not supported in their current form due to evacuation and isolation risks;
- Increased residential density in South Murwillumbah, as proposed in the Murwillumbah DCP is not supported on safety grounds;
- Need for community education on flood risks and emergency response measure.

The Committee raised a number of discussion points throughout the presentation, including:

Community Consultation

- The sugar Industry needs to be consulted on the study due to recent impacts of flooding on the industry;

Evacuation Planning

- The study needs to update its census data from 2006 to 2011, where this may be critical;

Design Flood Levels

- The Committee discussed merits of the 100 year ARI flood as the design flood rather than probable maximum flood (PMF). The study considers the full range of risks, in order to manage the residual risk. Q100 is the generally accepted limit for property protection, but protection of life warrants further consideration up to the PMF;

Flood Damage Assessment

- \$22m Annual Average Damages (AAD) one of the highest in the state. This does not include agricultural losses. This raised concerns in the Committee that we were not learning from our mistakes, at all levels of government. This study looks in detail at risk areas, and is not a one size fits all approach, including consideration of cumulative impact and controls in developed areas;

Lower Tweed

- Aspects of this locality including the potential impact of raising the South Tweed levee on West Tweed (expected to be insignificant as lower Tweed floods are ocean dominated), modification to the river mouth (unlikely to be approved, may exacerbate ocean inundation), dredging (previously found to be not economically viable), and management of stormwater in extreme storms were discussed.

Emergency Response

- The Committee agreed that the study information needs to be disseminated to the public as a priority, to empower communities. This needs to be supported by State Agencies.
- Previous events have impacted on community readiness to take SES advice, as floods have not eventuated to the extent predicted. SES maintains that they need to act in accordance with the flood and rain predictions given by the Bureau of Meteorology, and triggers in the Flood Plan. Public acceptance of the SES position on isolation and removing people from the flood risk is the biggest challenge, but alternatives such as shelter in place need to be explored.
- Ideas for public education include markers in the river to provide reference points, how to best travel to evacuation points (to avoid gridlock and parking problems), and 4WD education.
- The SES suggested additional gauges in the Lower Tweed would be useful.

Development

- Concerns were raised that the Riva Vue rezoning had not been included in the cumulative development scenario;

- The policy for emergency services facilities below PMF was discussed, with reference to the Kingscliff Police Station;
- The ability to raise roads to provide improved evacuation routes was discussed. The biggest problem is managing drainage, as there is a legacy of low roads that act as stormwater flow paths in many areas;
- Concerns were raised that amended controls that would allow increased habitable usage below flood level behind the Murwillumbah levee would lead to increased habitable densities, and worsen evacuation issues. It was argued that such increases would likely only be marginal, and the CBD area is not too far from high land.
- The potential link between flood damages and flood insurance was discussed.
- The issue of caravan parks was discussed. There were concerns that study does not come up with any approaches to removing these problem areas from the floodplain, such as buy back schemes. Suggest that short, medium and long term plans need to be formulated for inclusion in the plan.
- It was confirmed that the study was based on ALS ground data in the parent flood study, and that an extensive floor level survey has been undertaken right across the study area, to ensure the best available data is used.

COMMITTEE RECOMMENDATION TO COUNCIL:

That the Draft Tweed Valley Floodplain Risk Management Study and Plan be placed on public exhibition

MOVED: R Quirk

SECONDED: Cr K Skinner

General Business:

2. Kallaroo Circuit

A number of members raised concerns of Mooball-Crabbes Creek Drainage Union regarding ongoing issues with culverts under Kallaroo Circuit bund. Many members were involved in the provision of the larger waterway through this artificial bund, in order to address Drainage Union concerns that flood waters were being blocked from moving southward from Yelgun Creek to Marshalls Creek. The Drainage Union is now concerned that flood waters are being forced northward through the bund due to the state of Marshalls Creek, and that this needs to be properly addressed in the Coastal Creeks Floodplain Risk Management Study.

It was agreed to make the terms of reference for this study known to the concerned parties.

3. Dulguigan - Williams' floodplain modifications

Various works being carried out by a landholder were discussed by the Committee. This has been previously investigated by Council officers.

4. Committee Representation

The need for a community representative from Tweed Heads South was suggested. It was noted that following Council elections in September calls for committee membership will be issued.

Next Meeting:

The next meeting of the Floodplain Management Committee will be held as required

The meeting closed at 2.00pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

1. *Presentation of Draft Tweed Valley Floodplain Risk management Study and Plan*

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

1. *Presentation of Draft Tweed Valley Floodplain Risk management Study and Plan*

That the Draft Tweed Valley Floodplain Risk Management Study and Plan be placed on public exhibition.

72 [SUBCOM] Minutes Circulated to Councillors with this Agenda not Requiring a Council Decision

1. Minutes of the Tweed River Art Gallery Advisory Committee Meeting held Wednesday 16 May 2012 (ECM50912984).
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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*

73 [NOM-Cr P Youngblutt] Compulsory Acquisitions of Land

NOTICE OF MOTION:

Councillor P Youngblutt moves that Council officers bring forward a report on the compulsory acquisition of the property bordering Council's Kinnears Quarry and Sandercock Quarry on their western side at Harrys Road, North Arm. This report to be available to Council at its July meeting.

74 [NOM-Cr D Holdom] Promotional Banners Concept

NOTICE OF MOTION:

Councillor D Holdom moves 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.

75 [NOM-Cr D Holdom] Tweed District Water Augmentation - Secure Yield Supply - Strategy for the Current Planning Horizon to 2036 and Longer Term Future Water Augmentation Strategy Beyond 2036

NOTICE OF MOTION:

Councillor D Holdom moves that Council:

1. As population beyond 2036 requires and as funding permits, undertakes further preliminary forward planning investigations of the Byrrill Creek Site, in the interests of
-

- planning for a longer term Water Augmentation Strategy beyond the current planning horizon of 2036;
2. Officers inform Council by way of an annual report on any and all progress made in relationship to the further investigations, as described at part one (1) including land acquisitions;
 3. Adopts the original recommendation (from Ordinary Meeting held 19 October 2010 Item 24) of the raising of Clarrie Hall Dam as the preferred option for the current planning horizon to 2036, for the augmenting of the Tweed District Water Supply - Secure Yield;
 4. Proceeds with the Planning Approvals process and Concept Design in relation to the raising of Clarrie Hall Dam;
 5. Proceeds with planning approval investigations for Preliminary Geological/Geotech Studies, Seismic Studies and Hydrology Studies; a Legal and Planning Advice Study; a Land Acquisitions Plan; and liaising with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements) with respect to the raising of the Clarrie Hall Dam;
 6. Monitors and resources demand management actions with the aim of achieving at least BASIX/WELS reductions and reports to Council annually on progress and any implications for the Water Augmentation Strategy; and
 7. Officers bring forward a report on the results of the Integrated Water Cycle Management Strategy Review once it is completed next year and any implications for the Water Augmentation Strategy; and
 8. Officers bring forward a report that further informs Council on any proposed land acquisitions and ongoing discussions with landholders (as per the second recommendation of the report from the Ordinary Meeting held 16 November 2010 Item 18 Subsequent issues) regarding the Land Acquisition Plan as affected by either proposal.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Report from Council Meeting held 19 October 2010 (ECM22526442).
 2. Report from Council Meeting held 16 November 2010 (ECM23745754).
 3. Resolution from Council Meeting held 16 November 2010 (ECM24372305).
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76 [NOM-Cr K Skinner] Chinderah Foreshore Weed Management

NOTICE OF MOTION:

Councillor K Skinner moves that Council includes weed management of Chinderah foreshore, south of Chinderah newsagency, in the forthcoming Works Program.

77 [NOM-Cr K Skinner] Chinderah to Fingal Access Path for Walkers and Cyclists

NOTICE OF MOTION:

Councillor K Skinner moves that Council brings forward a report on the possibility of connecting Fingal and Chinderah with a continuous all access path for walkers and cyclists.

78 [NOM-Cr K Skinner] Trial of Biodegradable Bait Bags

NOTICE OF MOTION:

Councillor K Skinner moves that Council approaches Tweed Bait Supplies to support a second trial of biodegradable bait bags utilising the latest technology.

79 [NOM-Cr W Polglase] Economic Development Fund

NOTICE OF MOTION:

Councillor W Polglase moves that Council allocates an additional \$100,000 (one hundred thousand dollars) to the economic development fund within Tweed Shire Council. These funds are to come from the road funding budget.

80 [NOM-Cr W Polglase] Outdoor Dining Fees

NOTICE OF MOTION:

Councillor W Polglase moves that Council reduces the outdoor dining fees to \$75 (seventy five dollars) for unimproved footpath areas and \$117 (one hundred and seventeen dollars) for improved footpath areas within the 2012/2013 Fees and Charges.

81 [NOM-Cr K Milne] Total Cost of Dam Options

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on what the final end costs would be for the three alternative dam options i.e. for extending Clarrie Hall dam and the large and small Byrill Creek dams.

82 [NOM-Cr K Milne] Alternative Water Supply Options

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on whether there are any further water conservation options, or combinations of options, possibly available to meet Council's secure water yield and potentially avoid further dam building, and a preliminary estimate of the costs involved.

83 [NOM-Cr K Milne] Further Water Conservation Options for new Developments

NOTICE OF MOTION:

Councillor K Milne moves that Council seeks the specialist services of a water conservation expert as a matter of urgency on further water conservation options for major developments, seeks the cooperation of Tweed's current major developers, and investigates potential grant funding sources and management options.

84 [NOM-Cr K Milne] Shooting in National Parks

NOTICE OF MOTION:

Councillor K Milne moves that Council writes to the NSW State Government to:

1. Condemn shooting in NSW National Parks and in particular the Nightcap National Park due to concerns for public safety, the deterrent effects for potential tourists in this National Iconic Landscape, and the risks to Tweed's high numbers of threatened native species; and
 2. Requests that the National Parks and Wildlife Service are instead adequately funded to address these feral animal issues.
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85 [NOM-Cr K Milne] Cost Benefit Analysis on Population Levels

NOTICE OF MOTION:

Councillor K Milne moves that Council seeks the specialist services of a sustainability expert to undertake a cost benefit analysis to ascertain the social, economic and environmental impacts of increasing the Shire's population levels compared to stabilising the population.

86 [NOM-Cr K Milne] Coal Seam Gas Community Meeting

NOTICE OF MOTION:

Councillor K Milne moves that, following Council's meeting with the NSW Department of Mining, Council requests a meeting with representatives of Lock the Gate and the Northern Rivers Guardians on their concerns for Coal Seam Gas in the region.

87 [NOM-Cr K Milne] Service Station Chinderah

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on alternative options for a Service Station along the Pacific Highway.

88 [NOM-Cr K Milne] Street Tree Planting

NOTICE OF MOTION:

Councillor K Milne moves 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.

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QUESTIONS ON NOTICE

89 [QoN-Cr K Skinner] Chinderah Jetty

QUESTION ON NOTICE:

Councillor K Skinner asked:

Could Councillors please be advised as to what progress has been made in respect of the Chinderah Jetty installation?

90 [QoN-Cr K Milne] Special Prospecting Authority

QUESTION ON NOTICE:

Councillor K Milne asked:

Can Council provide a map of the areas in the Tweed Shire relating to the new Special Prospecting Authority for mining granted to NSW Aboriginal Land Council and any other current mining applications or licences in the Tweed Shire?

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CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

1 [CNR-CM] Richmond Tweed Regional Library

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.



Supporting Community Life

2 [CNR-CM] Funding Variation Emergency Response Interim Funding - Client 104038

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).
- (b) the personal hardship of any resident or ratepayer.



Supporting Community Life

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

3 [EO-CM] Acquisition of Land for Road Widening Purposes - Kyogle Road, Uki

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).



Civic Leadership

4 [EO-CM] Round Mountain Road, Round Mountain - Road Closure

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.



Civic Leadership

5 [EO-CM] Boyd Street, Tugun - Upgrade

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.



Civic Leadership

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