NOTICE IS GIVEN that a Meeting of Council will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on 21 September 2005 commencing at 5.00pm.

Submitted,

Dr J Griffin
General Manager

AGENDA

1. Prayer
2. Aboriginal Statement
3. Confirmation of Minutes of the Council Meeting held 7 September 2005
4. Apologies
5. Disclosure of Interest
6. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
7. Schedule of Outstanding Resolutions
8. Administrators’ Minute
9. Recommendations of the:
   a. Planning Committee Meeting held 7 September 2005
   b. Operations Committee Meeting held 21 September 2005
8. Reports through General Manager
   a. Reports from Director Planning & Development
   b. Reports from Director Governance & Corporate Services
   c. Reports from Director Engineering & Operations
   d. Reports from Director Environment & Community Services
9. Items of Information and Interest
10. Orders of the Day
11. Question Time
12. Confidential Matters - (exclude Press and Public)
ITEMS FOR CONSIDERATION OF COUNCIL:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PRECIS</th>
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</thead>
<tbody>
<tr>
<td>ABORIGINAL STATEMENT</td>
<td></td>
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<tr>
<td>CONFIRMATION OF MINUTES</td>
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<tr>
<td>Minutes of the Ordinary and Confidential Council Meetings held 7 September 2005</td>
<td></td>
<td>5</td>
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<tr>
<td>SCHEDULE OF OUTSTANDING RESOLUTIONS</td>
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<tr>
<td>Schedule of Outstanding Resolutions</td>
<td></td>
<td>7</td>
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<tr>
<td>ADMINISTRATOR'S MINUTE</td>
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<td>11</td>
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<td>[AM] Future Meeting Dates</td>
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<td>11</td>
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<td>[AM] Signing of Documents</td>
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<td>13</td>
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<tr>
<td>RECOMMENDATIONS OF THE PLANNING COMMITTEE</td>
<td></td>
<td>15</td>
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<tr>
<td>Recommendations of the Planning Committee Meeting held on 7 September 2005 for Council Adoption</td>
<td></td>
<td>15</td>
</tr>
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<td>RECOMMENDATIONS OF THE OPERATIONS COMMITTEE</td>
<td></td>
<td>31</td>
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<tr>
<td>Recommendations of the Operations Committee Meeting held 21 September 2005 for Council Adoption</td>
<td></td>
<td>31</td>
</tr>
<tr>
<td>THROUGH THE GENERAL MANAGER</td>
<td></td>
<td>33</td>
</tr>
<tr>
<td>REPORTS FROM THE DIRECTOR PLANNING &amp; DEVELOPMENT</td>
<td></td>
<td>33</td>
</tr>
<tr>
<td>1 [PD] Development Application DA05/0359 for an Attached Dual Occupancy at Lot 813 DP 1013074, No 32 Donegal Court, Banora Point</td>
<td></td>
<td>35</td>
</tr>
<tr>
<td>2 [PD] Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 &amp; Lot 1 DP 624403 Pacific Highway, Banora Point</td>
<td></td>
<td>67</td>
</tr>
<tr>
<td>REPORTS FROM THE DIRECTOR GOVERNANCE &amp; CORPORATE SERVICES</td>
<td></td>
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</tr>
<tr>
<td>3 [GC] AC2005-102 Supply of New Geographic Information System (GIS)</td>
<td></td>
<td>113</td>
</tr>
<tr>
<td>REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS</td>
<td></td>
<td>115</td>
</tr>
<tr>
<td>4 [EO] Tender EC2004-155 Supply &amp; Delivery of one (1) 15,000 Kg's GVM Tipper Unit</td>
<td></td>
<td>115</td>
</tr>
</tbody>
</table>
ABORIGINAL STATEMENT

Administrator Payne acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners of these lands."

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Council Meetings held 7 September 2005

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Minutes of the Ordinary Council Meetings held 7 September 2005 (DW 1263453)
2. Minutes of the Confidential Council Meetings held 7 September 2005 (DW 1263385)
SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

4 MAY 2005

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

14 [EC] Banora Point Caravan Park

344 RESOLUTION:

Cr M R Boyd
Cr L F Beck

RESOLVED that:-

1. This report be received and noted.

2. The Park Owner/Operator's Application for Approval to Operate be determined under delegated authority in accordance with the Consent Orders.

3. Council staff be required to bring forward regular reports with regard to the implementation of the Consent Orders.

Current Status: Enforcement being pursued.
1 JUNE 2005

REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS

26  [EO] Letitia Road - Access to Tweed River Sand Bypass System

417  COUNCIL DECISION:

Administrator Boyd
Administrator Turnbull

That staff organises a round table discussion with interested parties to discuss the stabilisation trial of the unsealed pavement of Letitia Road.

**Current Status:** The Aboriginal Advisory Committee has subsequently requested a Summit Meeting. Details to be arranged.

3 AUGUST 2005

QUESTION TIME

[QT] Woodlands and Darlington Drives, Banora Point

Administrator Boyd

Asked:

1. Would Council staff please investigate and report on the traffic problems of long standing associated with the roundabout at the intersection of Woodlands Drive and Darlington Drive?

2. Could the report also include an estimate of cost and possible source of revenue?

The Director Engineering and Operations advised that a report on these matters will be prepared.

**Current Status:** Report to be prepared
Tweed Shire Council Public Inquiry

500  COUNCIL DECISION:

Administrator Payne  
Administrator Boyd

RESOLVED that the General Manager be requested to bring forward a report to Council on the Tweed Shire Council Public Inquiry Second Report prepared by Emeritus Professor Maurice Daly, regarding the recommendations affecting Council.

Current Status:  Report being prepared.
ADMINISTRATOR’S MINUTE

[AM] Future Meeting Dates

Submitted by Administrator Payne

Council’s Code of Meeting Practice sets out the frequency of Council Meetings. To aid in the public notification process it is proposed to detail the following meeting dates and times.

The following meetings dates and times are proposed:-

21 September 2005
Commencing at 3.45pm - Reserves Trust, Operations Committee, Council.

5 October 2005
Commencing at 3.00pm - Operations Committee, Community Access, Council, Planning Committee.

19 October 2005
Commencing at 3.45pm - Reserves Trust, Operations Committee, Council, Planning Committee.

2 November 2005
Commencing at 3.00pm - Operations Committee, Community Access, Council, Planning Committee

16 November 2005
Commencing at 3.45pm - Reserves Trust, Operations Committee, Council, Planning Committee.

30 November 2005
Commencing at 3.00pm - Operations Committee, Community Access, Council, Planning Committee.

14 December 2005
Commencing at 3.00pm - Reserves Trust, Operations Committee, Planning Committee, Council.
1 February 2006
Commencing at 3.00pm - - Operations Committee, Community Access, Planning Committee, Council.

Due to there being no meetings scheduled for January 2006, consideration needs to be given to the adoption of the Planning Committee recommendations of 14 December 2005 to enable a smooth process of decision making at the Council meeting of the same day.

RECOMMENDATION:

That the meeting dates and commencement times be adopted and that the recommendations of the Planning Committee of 14 December 2005, be considered at the Council Meeting held on the same day.
[AM] Signing of Documents

The following documents have been signed by the Administrators on behalf of and in accordance with resolutions of Council

**Administrator Boyd**

17 August 2005  Banora Point Community Centre Caretakers Agreement  
Transfer - Cabarita Beach Surf Life Saving Club Inc

**Administrator Payne**

7 September 2005  Road Closure - Old Lismore Road, Byangum  
Transfer - Sale to Lindisfarne Anglican School

**RECOMMENDATION:**

That the information be received and noted.
RECOMMENDATIONS OF THE PLANNING COMMITTEE

Recommendations of the Planning Committee Meeting held on 7 September 2005 for Council Adoption

SUMMARY:

The recommendations from the Planning Committee Meeting held 7 September 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Planning Committee Meeting held on 7 September 2005 as reproduced in the body of this report.
REPORT:

1  [PD] Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 & Lot 1 DP 624403 Pacific Highway, Banora Point

P 1  COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that the application be supported and be referred to the next Council Meeting with appropriate conditions of approval.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

Current Status:  This item is the subject of a further report to this Council Meeting.

2  [PD] Development Application DA05/0359 for an Attached Dual Occupancy at Lot 813 DP 1013074, No. 32 Donegal Court, Banora Point

P 2  COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that Development Application DA05/0359 for an attached dual occupancy at Lot 813 DP 1013074, No. 32 Donegal Court Banora Point be referred to the next Council meeting for appropriate conditions of approval.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

Current Status:  This item is the subject of a further report to this Council Meeting.
3 [PD] Review of Determination of Development Application DA04/0173 for Multi Dwelling Housing Comprising Three (3) Dwellings at Lot 3 DP 214331, No. 13 Moss Street, Kingscliff

P 3 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that this development application be refused on the basis that the development is excessive in bulk, form, scale and site coverage with insufficient setbacks. Formal reasons for refusal to be provided by the Director Planning & Development at the next meeting of Council.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

4 [PD] Draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan

P 4 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that Council:-

1. Adopts Draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan as referred to in Attachment 1 of this report excluding provisions for future use of the Pandanus Parade precinct.

2. Commences preparation of Stage 2 of the project: -
   a. Completes a Master Plan and supporting Development Control Plan for the whole of Bogangar and Cabarita Beach villages.
   b. Prepares a Precinct Plan for the Pandanus Parade area that provides options as to how best to utilise this site for community uses.
3. A Committee is to be formed consisting of nominees of the Cabarita Residents Association (2), Cabarita Business Association (2), Strategic Planners (2), a representative of the Cabarita Beach SLSC, a representative from National Parks/Cudgen Nature Reserve, and an independent facilitator.

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Administrator Boyd**

<table>
<thead>
<tr>
<th>5</th>
<th>[PD] Draft Tweed Local Environmental Plan 2000, Amendment No 61 - Reclassification of Land at Marie Street, Tweed Heads to Operational Land</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P 5 COMMITTEE DECISION:</strong></td>
<td></td>
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<tr>
<td>Administrator Payne</td>
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<tr>
<td>Administrator Turnbull</td>
<td></td>
</tr>
</tbody>
</table>

**RECOMMENDED** that in accordance with Section 68 of the Environmental Planning and Assessment Act 1979, Draft Tweed Local Environmental Plan 2000, Amendment No 61, be forwarded without amendment to the Director of the Department of Infrastructure, Planning and Natural Resources for a report to the Minister under Section 69 of the Act.

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Administrator Boyd**

<table>
<thead>
<tr>
<th>6</th>
<th>[PD] Amendment to Section 94 Contribution Plan No 16 - Emergency Facilities (Surf Lifesaving)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>P 6 COMMITTEE DECISION:</strong></td>
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<tr>
<td>Administrator Payne</td>
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<tr>
<td>Administrator Turnbull</td>
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</tr>
</tbody>
</table>

**RECOMMENDED** that Council:

1. Adopts the amended exhibited Section 94 Contribution Plan No 16 – Emergency Facilities (Surf Lifesaving).
2. Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the amended Section 94 Contribution Plan comes into effect on the date of the notice.

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Administrator Boyd**

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**7** [PD] Section 94 Plan No. 18 - Council Administration Offices and Technical Support Facilities, 2005/25 Amendment

**P 7 COMMITTEE DECISION:**

Administrator Payne
Administrator Turnbull

RECOMMENDED that Council, in accordance with clause 31 of the Environmental Planning and Assessment Regulation 2000, approves draft version 2.0 of Section 94 Plan No. 18 – Council Administration Offices and Technical Support Facilities, to repeal and replace the existing version with Sections 2.1, 2.2 and 2.3 to be correctly numbered.

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Administrator Boyd**

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**8** [PD] Tweed Shire Community Based Heritage Study

**P 8 COMMITTEE DECISION:**

Administrator Payne
Administrator Turnbull

RECOMMENDED that:

1. Council expresses its appreciation to all those community members who have been involved with the preparation of the Tweed Shire Community Based Heritage Study, particularly Kath Prichard, Mary Lee Connery and Bill Bainbridge.

2. Council prepares, in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, an Amendment to Tweed Local Environmental Plan 2000:
- To list the following items in Schedule 2 Heritage Items of Tweed LEP 2000:

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Street Address</th>
<th>Locality Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Condom Mill Precinct</td>
<td>McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A01</td>
<td>Condom General Store &amp; Storage Sheds</td>
<td>McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A02</td>
<td>Condom Sugar Mill</td>
<td>123-153 McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A03</td>
<td>Manager’s Residence</td>
<td>99-121 McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A04</td>
<td>Tennis Court &amp; Gazebo</td>
<td>99-121 McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A05</td>
<td>Remains of the Condom Sugar Mill</td>
<td>Cnr Cane Road / McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A06</td>
<td>Residence</td>
<td>65 McLeod Street</td>
<td>Condom</td>
</tr>
<tr>
<td>A07</td>
<td>Fig Tree</td>
<td>Cnr Tweed Valley Road / Clothiers Creek Road</td>
<td>Condom</td>
</tr>
<tr>
<td>A08</td>
<td>Fig Tree</td>
<td>Tweed Valley Way</td>
<td>Condom</td>
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</tbody>
</table>

- To include the following conservation areas and items in Schedule 2 Heritage Items of Tweed LEP 2000:

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Street Address</th>
<th>Locality Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>Hartigan’s Hill Precinct</td>
<td>Eyles Avenue / Myrtle Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B01</td>
<td>Murwillumbah Public School Hall</td>
<td>Prince Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B02</td>
<td>Residence</td>
<td>1 Eyles Avenue</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B03</td>
<td>‘Goldsborough’ Residence</td>
<td>4 Eyles Avenue</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B04</td>
<td>Fmr HL Anthony Residence</td>
<td>13 Eyles Avenue</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C05</td>
<td>Residence</td>
<td>15 Eyles Avenue</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B06</td>
<td>Residence</td>
<td>1 Myrtle Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B07</td>
<td>Residence</td>
<td>3 Myrtle Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>B08</td>
<td>Residence</td>
<td>5 Myrtle Street</td>
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<td>Item</td>
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<td>B09</td>
<td>Residence</td>
<td>7 Myrtle Street, Murwillumbah</td>
<td>Lot 5 DP 18923</td>
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<td>Residence</td>
<td>9 Myrtle Street, Murwillumbah</td>
<td>Lot C DP 356395</td>
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<td>19 Myrtle Street, Murwillumbah</td>
<td>Lot B DP 102792</td>
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<td>B13</td>
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<td>Lot C DP 102792</td>
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<td>B14</td>
<td>Residence</td>
<td>23 Myrtle Street, Murwillumbah</td>
<td>Lot 1 DP 301212</td>
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<tr>
<td>B15</td>
<td>Residence</td>
<td>25 Myrtle Street, Murwillumbah</td>
<td>Lot 2 DP 301212</td>
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<tr>
<td>B16</td>
<td>Residence</td>
<td>27 Myrtle Street, Murwillumbah</td>
<td>Lot A DP 336592</td>
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<tr>
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<td>Residence</td>
<td>10 Myrtle Street, Murwillumbah</td>
<td>Lots 11 + 12 Sec 24 DP 5042</td>
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<td>Residence</td>
<td>12 Myrtle Street, Murwillumbah</td>
<td>Lot 3 DP 6623</td>
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<td>B19</td>
<td>Residence</td>
<td>18 Myrtle Street, Murwillumbah</td>
<td>Lots 7 + 8 DP 6623</td>
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<td>Residence</td>
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<td>Lot 9 DP 6623</td>
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<td>B21</td>
<td>Residence</td>
<td>22 Myrtle Street, Murwillumbah</td>
<td>Lot 10 DP 6623</td>
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<td>B22</td>
<td>Residence</td>
<td>24 Myrtle Street, Murwillumbah</td>
<td>Lot A DP 366412</td>
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<td>‘Tombonda’ Residence</td>
<td>26 Myrtle Street, Murwillumbah</td>
<td>Lots B + C DP 366412</td>
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<tr>
<td>C</td>
<td>Murwillumbah Main Street Precinct</td>
<td>Murwillumbah Street / Wharf Street, Murwillumbah</td>
<td>Located within Tweed River adjacent western bank approx. 100m north of Murwillumbah Bridge</td>
</tr>
<tr>
<td>C01</td>
<td>Remaining Wharf Pylons</td>
<td>Tumbulgum Road, Murwillumbah</td>
<td></td>
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<tr>
<td>C02</td>
<td>Fmr Rural Bank (currently Elders Real Estate)</td>
<td>1 Wharf Street, Murwillumbah</td>
<td>Lots 1 + 2 DP 780225</td>
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<td>C03</td>
<td>Commercial Premises (currently Town Motel - Daily News Office)</td>
<td>3-9 Wharf Street, Murwillumbah</td>
<td>Lots 1 + 2 DP 780226</td>
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<td>Commonwealth Bank Building</td>
<td>11 Wharf Street, Murwillumbah</td>
<td>Lots 1 + 2 DP 780227</td>
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<td>C05</td>
<td>Hotel Murwillumbah</td>
<td>13 Wharf Street, Murwillumbah</td>
<td>Lot 2 DP 521302</td>
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<td>C06</td>
<td>Tweed Arcade</td>
<td>27 Wharf Street, Murwillumbah</td>
<td>Lots 1 + 2 DP 779896, Lots 2 + 9 Sec 16 DP 758739, Lot 1 DP 779873, Lot 1 DP 779900, Lot 1 DP 114501</td>
</tr>
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<td>C07</td>
<td>Murwillumbah Town Clock</td>
<td>Murwillumbah Street, Murwillumbah</td>
<td>Located within traffic island intersection Murwillumbah Street / Queen Street</td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Street Address</td>
<td>Locality</td>
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</tr>
<tr>
<td>C08</td>
<td>Murwillumbah Ambulance Station</td>
<td>27 Queen Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C09</td>
<td>Fmr Salvation Army Citadel (currently antiques store)</td>
<td>21 Queen Street</td>
<td>Murwillumbah</td>
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<tr>
<td>C10</td>
<td>Broadway Building</td>
<td>5 Queen Street</td>
<td>Murwillumbah</td>
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<tr>
<td>C11</td>
<td>Amenities Block</td>
<td>Queen Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C12</td>
<td>BGF Building</td>
<td>1-3 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C13</td>
<td>Murwillumbah Police Station &amp; Courthouse</td>
<td>61-83 Murwillumbah Street</td>
<td>Murwillumbah</td>
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<td>C14</td>
<td>Commercial Premises (currently P Smith &amp; Sons Real Estate - the Cumquat Tree Store)</td>
<td>85-95 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C15</td>
<td>ANZ Bank Building</td>
<td>99-101 Murwillumbah Street</td>
<td>Murwillumbah</td>
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<tr>
<td>C16</td>
<td>Imperial Hotel</td>
<td>115 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C17</td>
<td>Murwillumbah Fire Station</td>
<td>133 Murwillumbah Street</td>
<td>Murwillumbah</td>
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<tr>
<td>C18</td>
<td>Government Offices</td>
<td>135 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C19</td>
<td>‘Robey’ Steam Engine</td>
<td>2 Queensland Road</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C20</td>
<td>Fmr Council Chambers &amp; Eungella War Memorial Roll (currently Tweed River Historical Museum)</td>
<td>2 Queensland Road</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C21</td>
<td>Sacred Heart Roman Catholic Church Group</td>
<td>143 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C22</td>
<td>‘Moira’ Residence</td>
<td>1 Byangum Road</td>
<td>Murwillumbah</td>
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<tr>
<td>C23</td>
<td>Uniting Church Group &amp; Methodist Circuit War Memorial Roll</td>
<td>2-4 Byangum Road</td>
<td>Murwillumbah</td>
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<td>C24</td>
<td>Commercial Premises (currently B &amp; P Surveyor’s Office)</td>
<td>142 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C25</td>
<td>Commercial Premises (currently Main Street Medical Centre)</td>
<td>140 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>C26</td>
<td>Commercial Premises (currently St Vincent De Paul Centre)</td>
<td>138 Murwillumbah Street</td>
<td>Murwillumbah</td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Street Address</td>
<td>Locality Description</td>
</tr>
<tr>
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</tr>
<tr>
<td>C27</td>
<td>Commercial Premises (currently Loades’ Butchery - Banana NSW Office)</td>
<td>132 Murwillumbah Street Murwillumbah</td>
<td>Lot 3 DP 726862</td>
</tr>
<tr>
<td>C28</td>
<td>Commercial Premises (currently James Cavanagh Op Shop - Global Antiques Store)</td>
<td>Murwillumbah Street Murwillumbah</td>
<td>Lot 4 DP 726862</td>
</tr>
<tr>
<td>C29</td>
<td>Regent Cinema Building</td>
<td>3-5 Brisbane Street Murwillumbah</td>
<td>Lots 1 + 2 DP 772368</td>
</tr>
<tr>
<td>C30</td>
<td>Westpac Bank Building</td>
<td>116 Murwillumbah Street Murwillumbah</td>
<td>Lot 1A DP 404253</td>
</tr>
<tr>
<td>C31</td>
<td>Commercial Premises (currently Fresh Homewares / Essentials Discount Store)</td>
<td>110-112 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 335913</td>
</tr>
<tr>
<td>C32</td>
<td>Commercial Premises (currently Walter Salmon Pharmacy)</td>
<td>108 Murwillumbah Street Murwillumbah</td>
<td>Lot 2 DP 335913</td>
</tr>
<tr>
<td>C33</td>
<td>Commercial Premises (currently Bridgelands Retravision)</td>
<td>104-106 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 167095</td>
</tr>
<tr>
<td>C34</td>
<td>Commercial Premises (currently John Taylor Beta Electrical / Andersons Jewellers)</td>
<td>100-102 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 772881</td>
</tr>
<tr>
<td>C35</td>
<td>Commercial Premises (currently Cellars Bottle Shop)</td>
<td>98 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 772861</td>
</tr>
<tr>
<td>C36</td>
<td>Commercial Premises (currently Rawards Mensland)</td>
<td>96 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 111656</td>
</tr>
<tr>
<td>C37</td>
<td>Commercial Premises (currently Austral Café)</td>
<td>86 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 772800</td>
</tr>
<tr>
<td>C38</td>
<td>Commercial Premises (currently Con Varela Pharmacy - AON Risk Services)</td>
<td>80, 82 + 92 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 419204</td>
</tr>
<tr>
<td>C39</td>
<td>Commercial Premises (currently R.M. Williams Work ‘n’ Country Store)</td>
<td>74 Murwillumbah Street Murwillumbah</td>
<td>Lot A DP 383297</td>
</tr>
<tr>
<td>C40</td>
<td>Commercial Premises (currently Murwillumbah News Newsagency)</td>
<td>66 Murwillumbah Street Murwillumbah</td>
<td>Lot 1DP 772755</td>
</tr>
<tr>
<td>C41</td>
<td>Commercial Premises (currently Salvation Army Store)</td>
<td>64 Murwillumbah Street Murwillumbah</td>
<td>Lot A DP 409152</td>
</tr>
<tr>
<td>C42</td>
<td>Courthouse Hotel</td>
<td>60-62 Murwillumbah Street Murwillumbah</td>
<td>Lot B DP 409152</td>
</tr>
<tr>
<td>C43</td>
<td>Commercial Premises (currently Dinki Di Discounts Store)</td>
<td>56-58 Murwillumbah Street Murwillumbah</td>
<td>Lots 1 + 2 DP 772753</td>
</tr>
<tr>
<td>C44</td>
<td>Commercial Premises (currently Hair Salon - TURSA Training &amp; Employment)</td>
<td>44-54 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 737195</td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Street Address</td>
<td>Locality Description</td>
</tr>
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<td>----</td>
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</tr>
<tr>
<td>C45</td>
<td>Commercial Premises (currently Toy Kingdom Toy Store)</td>
<td>36-42 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 772600</td>
</tr>
<tr>
<td>C46</td>
<td>National Australia Bank Building</td>
<td>36-42 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 772600</td>
</tr>
<tr>
<td>C47</td>
<td>Tweed House</td>
<td>34 Murwillumbah Street Murwillumbah</td>
<td>Lots 1 + 2 DP 726591</td>
</tr>
<tr>
<td>C48</td>
<td>Commercial Premises (currently JH Williams &amp; Sons Garden Centre)</td>
<td>26-30 Murwillumbah Street Murwillumbah</td>
<td>Lot 1 DP 394862 Lot 1 DP 525697</td>
</tr>
<tr>
<td>C49</td>
<td>Commercial Premises (currently Buzz Bar Music Store)</td>
<td>20 Wharf Street Murwillumbah</td>
<td>Lot 1 DP 328121</td>
</tr>
<tr>
<td>C50</td>
<td>Commercial Premises (currently JH Williams &amp; Sons Solver Decorator Centre)</td>
<td>16-18 Wharf Street Murwillumbah</td>
<td>Lot 1 DP 499529</td>
</tr>
<tr>
<td>C51</td>
<td>Commercial Premises (currently Solutions Surf)</td>
<td>14 Wharf Street Murwillumbah</td>
<td>Lot 1 DP 772598</td>
</tr>
<tr>
<td>C52</td>
<td>Commercial Premises (currently Blue Frog Café - Shells on Broadway Eatery)</td>
<td>4-10 Wharf Street Murwillumbah</td>
<td>Lot 1 DP 104284</td>
</tr>
<tr>
<td>C53</td>
<td>Marville Building</td>
<td>5 Wollumbin Street Murwillumbah</td>
<td>Lot 2 DP 657260</td>
</tr>
<tr>
<td>C54</td>
<td>Commercial Premises</td>
<td>1-3 Wollumbin Street Murwillumbah</td>
<td>Lot 1 DP 772596</td>
</tr>
<tr>
<td>C55</td>
<td>Austral Building</td>
<td>1-3 Wollumbin Street Murwillumbah</td>
<td>Lot 1 DP 772596</td>
</tr>
<tr>
<td>C56</td>
<td>Astor Flats</td>
<td>10-12 Commercial Road Murwillumbah</td>
<td>Lot 1 DP 518429</td>
</tr>
<tr>
<td>C57</td>
<td>Mulvin House</td>
<td>6-8 Commercial Road Murwillumbah</td>
<td>Lot 1 DP 780238</td>
</tr>
<tr>
<td>C58</td>
<td>Credit Union House</td>
<td>2-4 Commercial Road Murwillumbah</td>
<td>Lot 1 DP 780240</td>
</tr>
<tr>
<td>D</td>
<td>Tumbulgum Village Precinct</td>
<td>Riverside Drive</td>
<td>Tumbulgum</td>
</tr>
<tr>
<td>D01</td>
<td>Tumbulgum Community Hall &amp; War Memorial Roll</td>
<td>Riverside Drive Tumbulgum</td>
<td>Lots 30, 31 + 63 Sec 1 DP 1223</td>
</tr>
<tr>
<td>D02</td>
<td>Tumbulgum Tavern</td>
<td>126-134 Riverside Drive Tumbulgum</td>
<td>Lots 9-13 Sec 1 DP 1223</td>
</tr>
<tr>
<td>D03</td>
<td>St Peters Anglican Church</td>
<td>122-124 Riverside Drive Tumbulgum</td>
<td>Lots 7 + 8 Sec 1 DP 1223</td>
</tr>
<tr>
<td>D04</td>
<td>Tumbulgum Tea House &amp; Residence</td>
<td>106 Riverside Drive Tumbulgum</td>
<td>Lot 201 DP 865762</td>
</tr>
<tr>
<td>D05</td>
<td>Tumbulgum Ferry Approach</td>
<td>Cnr Riverside Drive / Fawcett Street Tumbulgum</td>
<td>Southern bank Tweed River opposite Tumbulgum Tea House &amp; Residence</td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Street Address</td>
<td>Locality Description</td>
</tr>
<tr>
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<td>----------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>E</td>
<td>Tyalgum Village Precinct</td>
<td>Coolman Street Tyalgum</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tyalgum Community Hall &amp; War Memorial Roll</td>
<td>1 Cudrigan Street Tyalgum</td>
<td>Lot 9 Sec 5 DP 759012</td>
</tr>
<tr>
<td>E02</td>
<td>Tyalgum Hotel</td>
<td>35-41 Coolman Street Tyalgum</td>
<td>Lots 4, 5, 6 + 7 Sec 8 DP 759012</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lot 1 DP 253165</td>
</tr>
<tr>
<td>E03</td>
<td>Fmr Village Bakery (currently coffee shop &amp; specialty gifts store)</td>
<td>23-25 Coolman Street Tyalgum</td>
<td>Lot 4 Sec 6 DP 759012</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lot A DP 354819</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lot 5 DP 662423</td>
</tr>
<tr>
<td>E04</td>
<td>Tyalgum Store</td>
<td>29 Coolman Street Tyalgum</td>
<td>Lots 1 + 2 DP 772864</td>
</tr>
<tr>
<td>E05</td>
<td>Fmr Tyalgum Butter Factory (currently Bartrim’s Garage)</td>
<td>6 Coolman Street Tyalgum</td>
<td>Lot 1 DP 228337</td>
</tr>
<tr>
<td>F</td>
<td>Uki Village Precinct</td>
<td>Kyogle Road Uki</td>
<td></td>
</tr>
<tr>
<td>F01</td>
<td>Holy Trinity Anglican Church</td>
<td>1473 Kyogle Road Kyogle</td>
<td>Lot 116 DP 755730</td>
</tr>
<tr>
<td>F02</td>
<td>General Store Shed including Painted Flood Markers (1954 &amp; 1956)</td>
<td>1466 Kyogle Road Uki</td>
<td>Lots 7 + 8 DP 8107</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Located at rear of property adjacent Milsoms Lane</td>
</tr>
<tr>
<td>F03</td>
<td>Remains of Moore Bros. Flying Fox</td>
<td>Milsoms Lane Uki</td>
<td>Creek side of Road Reserve approx. 20m west Cnr Milsoms Lane / Norco Street</td>
</tr>
<tr>
<td>F04</td>
<td>Uki Community Hall / Uki School of Arts &amp; War Memorial Rolls</td>
<td>1462 Kyogle Road Uki</td>
<td>Lot 233 DP 721129</td>
</tr>
<tr>
<td>F05</td>
<td>Mount Warning Hotel</td>
<td>1497-1501 Kyogle Road Uki</td>
<td>Lot 11 DP 838447</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lot 102 DP 1061154</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lot 9 DP 825218</td>
</tr>
<tr>
<td>F06</td>
<td>Fmr Uki Butter Factory</td>
<td>1454 Kyogle Road Uki</td>
<td>Lot 71 DP 755730</td>
</tr>
<tr>
<td>F07</td>
<td>Uki Post Office &amp; Newsagency</td>
<td>1464 Kyogle Road Uki</td>
<td>Lot 232 DP 721129</td>
</tr>
<tr>
<td>F08</td>
<td>Fmr Sisters of St Joseph’s Convent (currently private residences)</td>
<td>9 Old Convent Lane Uki</td>
<td>Lot 1 DP 1002893</td>
</tr>
<tr>
<td>F09</td>
<td>St Columba Roman Catholic Church</td>
<td>7 Old Convent Lane Uki</td>
<td>Lot 4 DP 563015</td>
</tr>
<tr>
<td>F10</td>
<td>Fmr English, Scottish &amp; Australian Bank (currently Uki Gallery)</td>
<td>1468 Kyogle Road Uki</td>
<td>Lot 6 DP 8107</td>
</tr>
<tr>
<td>F11</td>
<td>Uki War Memorial featuring Town Clock</td>
<td>Kyogle Road Uki</td>
<td>Road Reserve within traffic island intersection Kyogle Road / Norco Street / Rowlands Creek Road</td>
</tr>
</tbody>
</table>

3. Council requests the Director-General of the Department to waive the requirement for an Environmental Study in view of the prepared Community Based Heritage Study, which will be exhibited with the proposed draft Plan.
4. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study but forwards them to the Marine Archaeologist of the NSW Heritage Office because their location is not within the Tweed Shire:

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Locality Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>&quot;Dellie&quot; Shipwreck</td>
<td>Offshore Fingal Head Beach Coral Sea</td>
</tr>
<tr>
<td>2.</td>
<td>&quot;Alberta&quot; Shipwreck</td>
<td>Sutherland Reef Coral Sea</td>
</tr>
<tr>
<td>3.</td>
<td>&quot;Tyalgum&quot; Shipwreck</td>
<td>Offshore Duranbah Beach Coral Sea</td>
</tr>
</tbody>
</table>

5. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study but includes them with those items deferred for further consideration at a later stage because their location could not be accurately identified from the data available:

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Street Address</th>
<th>Locality Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Residence</td>
<td>Condong</td>
<td>Unknown</td>
</tr>
<tr>
<td>2.</td>
<td>Residence</td>
<td>Byangum Road, Murwillumbah</td>
<td>Unknown</td>
</tr>
</tbody>
</table>

6. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study because it would result in an unnecessary duplication of Council’s planning provisions:

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Street Address</th>
<th>Locality Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Cook Island Nature Reserve</td>
<td>Coral Sea</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Night Cap National Park</td>
<td>Doon Doon / Midginbil / Kunghur Creek</td>
<td>Lots 79, 86, &amp; 89 DP 755710 Lot 1357 DP 3050</td>
</tr>
<tr>
<td>4.</td>
<td>Limpinwood Nature Reserve</td>
<td>Limpinwood</td>
<td>Lots 109, 153, &amp; 8277 DP 755696</td>
</tr>
<tr>
<td>5.</td>
<td>Numinbah Nature Reserve</td>
<td>Numinbah / Upper Crystal Creek</td>
<td>Lots 91 &amp; 92 DP 755715 Lots 120, 129, 130, &amp; 8279 DP 755696</td>
</tr>
<tr>
<td>6.</td>
<td>Stotts Island Nature Reserve</td>
<td>Tweed Valley Way Stotts Creek</td>
<td>Lot 8283 DP 755698</td>
</tr>
<tr>
<td>7.</td>
<td>Ukerebagh Nature Reserve &amp; Ukerebagh Aboriginal Midden Complex</td>
<td>Water Street Tweed Heads South</td>
<td>Lot 8282 DP 755740</td>
</tr>
<tr>
<td>8.</td>
<td>Tweed River Valley</td>
<td>Tweed Shire</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Street Address</td>
<td>Locality Description</td>
</tr>
<tr>
<td>----</td>
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<td>--------------------------------------------</td>
</tr>
<tr>
<td>10</td>
<td>Border Ranges Region including Mebbin National Park</td>
<td>Tyalgum Creek / Pumpenbil / Mebbin</td>
<td>Lots 1-3 DP 728118, Lots 38, 39, 82, &amp; 8273 DP 755748</td>
</tr>
<tr>
<td>11</td>
<td>Billinudgel Nature Reserve &amp; Wooyung Aboriginal Place</td>
<td>Old Coast Road / Jones Road Wooyung</td>
<td>Lot 1 DP 779830, Lot 59 DP 775721, Part Lot 7011 DP 755721</td>
</tr>
<tr>
<td>12</td>
<td>Wooyung Nature Reserve</td>
<td>Tweed Coast Road Wooyung</td>
<td>Lots 7001 &amp; 8209 DP 755721, Part Lots 7011 &amp; 7012 DP 755721</td>
</tr>
</tbody>
</table>

7. The establishment of a Heritage Advisor, Heritage Advisory Committee, Local Heritage Fund, Heritage Publications, and Conservation Area Development Control Plans be considered as part of the 2006/07 Council Budget and Management Plan.

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Administrator Boyd**

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9. [PD] Proposed Rezoning - Port Drive, Tweed Heads South

**P 9 COMMITTEE DECISION:**
Administrator Payne
Administrator Turnbull

**RECOMMENDED** that Council:

1. Prepares a draft Local Environmental Plan, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 to rezone part of the Vintage Lakes Estate, as identified in this report, from 6(b) Recreation to 2(c) Urban Expansion.
2. Requests the Director-General of the Department to waive the requirement for an Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

10 [PD] Tourist Accommodation

P 10 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that a decision on this item be deferred until a Workshop on this matter is held in October.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

Current Status: This item is the subject of a Workshop to be held on 5 October 2005.

11 [PD] Pottsville Trade/Industrial Area

P 11 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that consideration of this item be deferred until after the Pottsville Community Forum meeting.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

Current Status: This item to be re-considered at the Planning Committee Meeting of 5 October 2005.
a11 [PD] Review of Determination of Development Application DA04/1300 for an Integrated Housing Development Incorporating 6 Dwellings Being Part Two (2) and Part Three (3) Storey at Lot 15 DP 21680, Lot 14 Sec 6 DP 17606, No. 17 & 19 Moss Street, Kingscliff

P 12 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that Development Application DA04/1300 for an integrated housing development incorporating 6 dwellings being part two (2) and part three (3) storey at Lot 15 DP 21680 Lot 14 Sec 6 DP 17606, No. 17 & 19 Moss Street, Kingscliff be refused on the basis of its non-compliance with Tweed Local Environmental Plan Clause 16 height of buildings and impose the previous reasons for refusal.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd

Late [AM] Tweed Shire Planning Instruments Applying to Residential Subdivisions in Hill Zones

P 13 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that this report be received and noted and the Director Planning and Development provides a report and advice on the recommendations contained within the Government Architect’s Preliminary Review of Tweed Shire Planning Instruments Applying to Residential Subdivisions in Hill Zones.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Administrator Boyd
RECOMMENDATIONS OF THE OPERATIONS COMMITTEE

Recommendations of the Operations Committee Meeting held 21 September 2005 for Council Adoption

SUMMARY:

The recommendations from the Operations Committee Meeting held 21 September 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Operations Committee Meeting held on 21 September 2005 in relation to the items below:

2. [EO] Tugun Bypass Deletion of Boyd Street Interchange
3. [EO] Tweed Community-Kenya Mentoring Program Stage 3
4. [EO] Classification of Land as Operational, Casuarina

1. [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 10 August 2005
2. [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 10 August 2005
3. [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Tuesday 16 August 2005
THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT

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.
1. Development Application DA05/0359 for an Attached Dual Occupancy at Lot 813 DP 1013074, No. 32 Donegal Court, Banora Point

ORIGIN:
Development Assessment

FILE NO: DA05/0359 Pt1

SUMMARY OF REPORT:

At the Planning Committee meeting held 17 August 2005 it was recommended as follows:

"that this item be deferred to the next meeting of the Planning Committee to allow objectors time to make representation to the Planning Committee access session and to have drawings included with the item."

At the Planning Committee meeting held 7 September 2005 it was recommended as follows:

"that Development Application DA05/0359 for an attached dual occupancy at Lot 813 DP 1013074, No. 32 Donegal Court Banora Point be referred to the next Council meeting for appropriate conditions of approval."

As a result of these recommendations the report is resubmitted with all the relevant conditions included.

RECOMMENDATION:

That Development Application DA05/0359 for an attached dual occupancy at Lot 813 DP 1013074, No. 32 Donegal Court Banora Point be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Sheet Nos 1-8 prepared by S Todies and dated 2 March 2005 and the Landscape Concept Plan prepared by Paul Lockhart of Boyds Bay Garden World, except where varied by these conditions.

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. 

4. 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

   (b1) 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

   (b2) 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.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
6. Development approval only is granted for a driveway from the development to connect with the adjacent public road.

You will be advised separately of the determination of your application to Council for consent under Section 138 of the Roads Act 1993 to construct or modify a driveway on the public road adjacent to your property.

You must receive this separate written consent from Council under Section 138 of the Roads Act 1993 prior to the issue of a construction certificate which includes any works on the adjacent public road and prior to any works taking place on the adjacent public road.

7. A detailed site stormwater plan, which includes details of the method of collecting and disposing of overland flow of rainwater which enters the site, separate to the roof water drainage system, shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

8. Construction Certificate drawings shall make provision for the regarding of the subject site, in accordance with Council's Development Control Plan 47 - Cut and Fill on Residential Land or to the satisfaction of the Director Engineering & Operations Division.

9. All retaining walls in excess of 1.2m are to be designed by a suitably qualified geotechnical / structural engineer in accordance with AS4678 - 2002 - Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction Certificate drawings.

10. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

11. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.
12. 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 1993.

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.

13. Section 94 Contributions

(i) 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.

a. Banora Point West/Tweed Heads South (DCP3) Open Space Passive (Casual): $813
   S94 Plan No. 1

b. Banora Point West/Tweed Heads South (DCP3) Open Space Active (Structured): $639
   S94 Plan No. 1
c. Tweed Road Contribution Plan: $1,684
   S94 Plan No. 4 (Version 4.0)
   Sector2_4

d. Shirewide Library Facilities: $212
   S94 Plan No. 11

e. Eviron Cemetery/Crematorium Facilities: $50
   S94 Plan No. 13

f. Emergency Facilities (Surf Lifesaving) (REMSHIRE) $87
   S94 Plan No. 16

g. Extensions to Council Administration Offices & Technical Support Facilities $178.34
   S94 Plan No. 18

h. Cycleways $110
   S94 Plan No. 22

i. Regional Open Space (Structured) $361
   S94 Plan No. 26

j. Regional Open Space (Casual) $67
   S94 Plan No. 26

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

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

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

Water DSP4: 1 ET @ $4230 $4,230
Sewer Banora: 1 ET @ $2634 $2,634

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.
PRIOR TO COMMENCEMENT OF WORK

15. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principal Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

Note: All cut and or fill must comply with DCP 47. The top of any battered cut, toe or battered fill and the face of any retaining wall structure supporting cut or fill cannot be closer that 900mm to the boundary where the overall height at any point exceeds 500mm.

16. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

(i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and

(ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and

(iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-

(A) the method of protection; and
(B) the date of installation of the system; and
(C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
(D) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

17. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) 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, or
(c) if that is not practicable, any other sewage management facility approved by the council.

18. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, 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.

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

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

21. 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 PCA prior to commencement of building works.
22. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign 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.

Please note that this sign is to remain in position for the duration of the project.

23. Residential building work:
   (1) 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:

   (a) in the case of work for which a principal contractor is required to be appointed:
      (i) in the name and licence number of the principal contractor, and
      (ii) the name of the insurer by which the work is insured under Part 6 of that Act,

   (b) in the case of work to be done by an owner-builder:
      (i) the name of the owner-builder, and
      (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

   (2) 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.

24. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.
Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

DURING CONSTRUCTION

25. 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 or complying development certificate was made).

26. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

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

28. 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.

29. 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.

30. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

31. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
32. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Council's Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.

33. 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.

34. 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.

35. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

36. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

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

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

39. 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.

40. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:

i. All required erosion and sedimentation control devices have been installed and are operational.

ii. Required toilet facilities have been provided on the site.

iii. A sign has been erected on the site identifying:
   • Lot number
   • Builder
   • Phone number of builder or person responsible for site.

iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.

v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.

41. 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 to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

42. All proposed works are to be carried out in accordance with the conditions of development consent, approved Construction Certificate drawings and Specifications.

43. No soil, sand, gravel, clay or other material shall be disposed of off the site.

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

[DUR0430]

46. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0470]

47. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR0490]

48. All stormwater from roof catchment to be connected directly into road drainage pits if available, or to kerb and gutter, along the frontage of the site.

[DUR0640]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

49. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

50. A person must not commence occupation or use of the whole or any part of a new building (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).

[POC0030]
REPORT:

Applicant: Mr S Todiee
Owner: Mr S Mansour and Mrs P Mansouri
Location: Lot 813 DP 1013074, No. 32 Donegal Court Banora Point
Zoning: 2(c) Urban Expansion
Cost: $230,000

BACKGROUND:

Two previous Development Applications have been submitted over the subject site. Development Application DA05/0035 for an attached dual occupancy was submitted to Council on the 14 January 2005 although pursuant to Section 51(1) of the Environmental Planning and Assessment Act Regulation 2000 the application was returned to the applicant as insufficient information was submitted with the application.

Previously Development Application DA04/0127 was submitted to Council for a two (2) lot subdivision over the subject land within Glen Ayre Estate seeking to create two allotments of 640m² and 690m² respectively. The Development Application was reported to the Council Meeting on the 2 June 2004 and recommended that the application be approved subject to conditions. The application was considered at the Council Meeting and it was resolved ‘that the matter be deferred for Council staff to bring forward appropriate reasons and/or conditions for refusal’. On Wednesday 16 June 2004 Council resolved to refuse Development Application DA04/0127. The reasons for refusal were as follows:

1. The proposed subdivision is not in keeping with the amenity and character of the locality.
2. The proposed subdivision is not considered acceptable given the intent of the original subdivision and the 88B instrument that prohibits dual occupancy developments.
3. The topography and geotechnical constraints limit the dwelling types which could be constructed on the land.
4. The proposed subdivision may result in an unacceptable impact on Donegal Court with on street car parking due to the gradient of the accessway to the subdivision lots and limited on street parking.
5. The weight of public objection to the proposal from other landowners in Donegal Court.

The subject site is a vacant parcel of land within the Glen Ayre Estate subdivision. The site has a 15.5 metre frontage to Donegal Court and an approximate depth of 45 metres. The site splays out from the street frontage and is slightly irregular in shape, with a total area of 1331m².
The topography of the site is relatively steep with levels ranging between 9.5m AHD and 24.5m AHD. The site slopes upward from the Donegal Court frontage at a gradient between 18-25%. There is no significant vegetation on the site. The surrounding development is characterised by a mix of single dwelling houses and vacant residential allotments.
SITE DIAGRAM:

Lot 813 DP 1013074
CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(c) Urban Expansion under the Tweed Local Environmental Plan 2000. The proposed development is permissible with the consent of Council. The proposed development is consistent with the primary objective of the zone.

The following Clauses of the Tweed Local Environmental Plan 2000 are relevant to the proposal:

Clause 15 of the TLEP requires Council to ensure adequacy of services prior to determining the development application. All essential services are currently provided to the subject site.

Clause 16 of the TLEP requires Council to ensure that the height and scale of development is appropriate to the site and the surrounding built and natural environment. Under the TLEP Height of Buildings Map the site is identified within the 3-storey height of restriction. The proposal comprises a part one (1) and part two (2) storey building. The proposal complies with the provision of clause 16.

Clause 17 of the TLEP requires Council to ensure proper consideration of development that may have a significant social or economic impact. The proposal is not considered likely to generate any significant social or economic impacts. Further assessment is not considered warranted.

Clause 56 Relates to the suspension of covenants, agreements and similar instruments. Clause 56 subclause (2) states: “For the purpose of enabling development to be carried out in accordance with this plan or a consent granted under the Act, any covenant, agreement or similar instrument that restricts development allowed by this plan shall not apply to the development to the extent necessary to serve that purpose.” As a consequence of Clause 56 the Section 88B Instrument which applies to the land (limiting development to single dwellings) is suspended by the provisions of this Clause.

North Coast Regional Environmental Plan 1988

Clause 32B of NCREP applies as the subject land is located within the NSW Coastal Policy. The proposal will not create any overshadowing of beaches or waterfront open space or impede public access to the foreshore area, nor does the proposal contradict the strategic aims and objectives of The New South Wales Coast Government Policy, The Coastline Management Manual or, The North Coast: Design Guidelines.
Clause 43 of NCREP requires density of development to be maximised without impacting on the environment. The proposed density is considered to be a reasonable response to the land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are suitable for the function of the proposal and a detailed sedimentation and erosion control plan will be conditioned and enforced in relation to construction works.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The subject land is affected by SEPP 71 – Coastal Protection. The proposal will not impede public access to the foreshore, cause overshadowing to the foreshore or make any significant negative impacts that may conflict with the criteria contained in clause 2 and 8 of SEPP 71. The proposal complies with the provisions of SEPP 71.

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

The proposed development is not affected by any Draft Environmental Planning Instruments.

(a) (iii) Development Control Plans (DCPs)

Development Control Plan No. 2 – Access and Parking Code

The following table details the compliance of the proposed development with the on-site car-parking provisions contained in DCP 2:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposal</th>
<th>Satisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>On Site Car Parking</td>
<td>2 spaces per dwelling</td>
<td>4 spaces in total</td>
<td>YES</td>
</tr>
</tbody>
</table>

The proposed development proposes 4 onsite parking spaces in the form of two double garages. Furthermore, both driveway areas provide the possibility of providing additional onsite parking spaces in a stacked parking arrangement.

In regard to the proposed parking layout the development is considered to comply with DCP 2.
Development Control Plan No.3 - Banora Point West/Tweed Heads South

Glen Ayre estate is identified within the prescribed area subject to the provisions of DCP No.3. The purpose of DCP No.3 is to present Council's objectives with regard to development in these areas. In this regard, development must generally comply with the provisions of the relevant land use category. There are four (4) types of Residential Areas identified in the plan.

Glen Ayre estate (inclusive of the subject site) is identified as a Residential 'B' Area. According to the provisions of the DCP, the Residential 'B' category is intended to provide for a housing form that is medium density in character. The document states that;

"Duplexes, cluster and integrated housing development may also be accommodated within this area, provided the density of any proposed development is similar to townhouse density.

Unless exceptional circumstances exist, these areas preclude the development of conventional detached dwellings.

Within the DCP area, provision has been made for approximately 120 hectares (of Residential 'B' land), which equates to 2880 dwellings accommodating up to 6500 persons."

It is evident in the nature of the existing development within Glen Ayre estate that the provisions of DCP have not been adhered to in previous proposals. This may be linked to the constraints applicable to the area relating to the topography of the land and the limited capacity of Donegal Court in accommodating medium density development.

It is apparent however, that the planned population densities are not being met by the current pattern of development. The Section 88B Instrument in place over the estate further limits the potential for meeting these population quotas. In this context, the proposed attached dual occupancy presents an opportunity to make a minor addition to the desired density of the area.

Development Control Plan No.6 – Multi Dwelling Housing

The following table assess the proposed development in relation to the provisions of the DCP:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Space Ratio</td>
<td>0.5:1 (665.5m²)</td>
<td>0.2:1 (266.2m²)</td>
<td>YES</td>
</tr>
<tr>
<td>Minimum Landscaped Area</td>
<td>30% site area (399.3m²)</td>
<td>Approximately 34% site area (452.5m²)</td>
<td>YES</td>
</tr>
<tr>
<td>Setbacks from street boundary</td>
<td>Primary frontage 6m</td>
<td>&gt;6m to main wall</td>
<td>YES</td>
</tr>
</tbody>
</table>
Setbacks

| Setbacks | 900mm in accordance with BCA | >900mm | YES |

Streetscape

| Streetscape | The maximum width of the garages should be 50% of the frontage width. | Provision not applicable as garages are addressing side boundary. | YES |

Streetscape

| Streetscape | Garages should be setback behind the front façade of the building. | The garages are setback behind the front façade of the building. | YES |

Building Envelope

| Building Envelope | 45° from 3.5m high at the side and rear boundary (excluding eaves and the like) | Generally Complies | YES |

Minimum Private Open Space

| Minimum Private Open Space | 20% of site area (266.2m² = 133.1m² per dwelling) with minimum dimension of 3m | Unit 1 = 145 m²  
Unit 2 = 240 m² | YES |

| Minimum Private Open Space | One part min 25m² with min dimension of 4m | >25m² & min. dimension of 4m | YES |

Streetscape

The overall objective of Section 3.2.1 Streetscape is to ensure that new development enhances and makes a positive contribution to the character of existing streetscapes or desired future character of the area. The cut and fill proposed for the proposed attached dual occupancy is designed to cater for the topography of the land and to limit the effect of bulk and scale from the streetscape. The subject lot is considered to comply with all applicable streetscape, setback and building appearance requirements detailed within DCP 6.

The subject application includes a detailed landscaping plan, incorporating extensive amounts of landscaping, particularly along Donegal Court. The proposed landscaping is seen to significantly soften the appearance of the development from the Donegal Court streetscape.

Summary

In all aspects the proposed multi dwelling housing development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within DCP 6.
Development Control Plan No.39 – Energy Efficient Housing

The applicant has submitted requested Council’s Building Services Unit complete an ABSA certificate for the proposed development that outlines compliance with the requirements DCP 39 and the results are as follows:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Energy rating</td>
<td>3.5 stars minimum</td>
<td>3.5 stars</td>
<td>YES</td>
</tr>
</tbody>
</table>

The proposal is therefore considered to satisfy the requirements of DCP 39.

Development Control Plan No.42 – Public Notification Policy

The development application was notified to surrounding properties for a period of two weeks. During this period one written submissions was received in the form of a petition signed by thirty-three (33) residents from a total of seventeen (17) households. The main issues raised within the submissions included character, overdevelopment of the site and traffic issues. The issues raised are addressed further in this report.

Development Control Plan No. 47 – Cut and Fill on Residential Land

A Geo-Technical Assessment has been undertaken on the site by Border-Tech. The Report contains recommendations concerning building foundations, site preparations and compaction. The Report makes comment that Border-Tech are aware of the Geo-Technical Testing and inspections that were carried out during the placement of the fill on site (during the creation of the lot) and consider the fill material ‘controlled’. Council’s Development Assessment Engineer has examined the submitted Geo-Technical Assessment and drawings and raised no objection to the proposal.

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

NSW Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed dual occupancy contradicts the objectives of the Government Coastal 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 & Setting

The subject site and surrounding allotments are currently zoned 2(c) Urban Expansion under the TLEP 2000, with the area primarily expressing a detached residential development character. Whilst development is primarily of a detached nature, a number of differing lots sizes and building forms are present within the immediate vicinity.

The majority of lots along Donegal Court are generally of a regular shape and are relatively similar in terms of lot layout and size, however some are larger, deeper lots. Accordingly, the majority of housing developments along Donegal Court incorporate larger building setbacks, with a variety of traditional and coastal building designs, a number of styles and building heights ranging from single to three storeys.

Whilst the area does present an established context and setting, a number of recently approved dwellings in the vicinity has initiated the start of a progressive change to the streetscape, context and setting of the area. The proposed dual occupancy is considered enhance this progressive change and make a positive contribution to the context and setting of the site and its surrounds.

The density of the development is one (1) unit per 665.5m² of site area, which given the physical constraints of the site is appropriate. There are eight (8) other allotments that have dwellings located upon them below 665m² site area within Donegal Court, which suggests that the development is compatible with the existing and the desired future character of the locality.

(c) Suitability of the site for the development

Suitability of the Lot for Dual Occupancy Development

The subject site has a land area of 1331m². The topography of the site is relatively steep with levels ranging between 9.5m AHD and 24.5m AHD. The site slopes upward from the Donegal Court frontage at a gradient between 18-25%. The site enjoys a 15.5-metre frontage to Donegal Court and is approximately 45 metres deep. The applicant has provided a Geo-Technical report that concludes that the land is suitable for the proposed development. Council’s Development Assessment Engineer has reviewed the supporting information and resolved to support the proposal subject to the recommendations put forward in the Geo-Technical report.

Neighbouring land comprises primarily of single dwellings, with variant building heights between 1 and 3 storeys and architectural styles within the vicinity. Council’s GIS system indicates that the lot is not bushfire prone and does not have any other significant environmental constraints.
The site is considered suitable for dual occupancy development with the land possessing limited hazards and limitations in terms of lot size, shape, layout and surrounding development.

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

The proposed development was notified in accordance with Council’s Development Control Plan No. 42 for a period of fourteen (14) days. One submission was received during this period in the form of a petition signed by thirty-three (33) residents from a total of seventeen (17) households in Donegal Court. The petition against the proposed development provides no specific basis for objection.

Following are the objections raised and a response to the matters raised in the submission:

- All lots displayed on Tweed Shire Council approved plans were for single dwelling only.

**Response:** The Section 88B Instrument which applies to the land, limiting the nature of the development to single dwelling houses is suspended by the provisions under Clause 56 of the Tweed Local Environmental Plan.

- Donegal Court cul-de-sac does not have sufficient capacity for street parking for visiting persons and the increased traffic generated by additional dwellings/driveways.

**Response:** Council’s Development Assessment Engineer has assessed the proposed development and raised no concerns over the parking proposed to service to the development. The proposed development meets with the requirements of Development Control Plan No. 2.

- The proposed subdivision will no doubt multiply traffic noise and flow, and will disrupt the peace and quite enjoyed by others within Donegal Court.

**Response:** The proposal will result in one (1) additional dwelling requiring access via Donegal Court. The proposed development is serviced by a single driveway. Two (2) onsite car parking spaces per unit are provided. Donegal Court is a cul-de-sac which does not carry through traffic. Council’s Development Assessment Engineer has raised no traffic generation issues and concludes that the existing road system is capable of accommodating the additional traffic that will be generated by this development. It has been assessed that the additional traffic noise associated with the proposed development will be negligible.

- The investment made when purchasing and expected growth in our investment will not be achievable.
Response: There is no evidence to suggest that the proposed development will have a negative impact on surrounding property values. The scale of the proposed development is relatively minor, facilitating the provision of one (1) additional dwelling within the estate. There are no significant impacts foreseen as a result.

- We have concerns the applicants have no intention of residing in either dwellings themselves.

Response: This objection is not relevant to the merits of the application and does not warrant a response.

- Will other vacant allotments in Donegal Court be encouraged to apply for multiple dwellings and give our wonderful street the appearance of cluster housing, which we are certain was never the intention of the original developer or the residents now occupying Donegal Court.

Response: Most of the allotments within Donegal Court have dwellings already located upon them. Applications can be lodged for dual occupancies on allotments although are required to be assessed on their merits and met with Council’s adopted polices and planning documents. The proposal is unlikely to create a precedent for similar development proposals on other vacant allotments in the estate. The site is unusually large with an area of 1331m2, which is double the size of a standard residential allotment. Other vacant lots in the locality are generally in the order of 600-800m2.

Summary
Whilst certain issues raised in the submission raise valid points, they are not considered substantial enough to warrant the refusal of the development application. The application demonstrates compliance with all relevant Council controls and policies pertaining to an attached dual occupancy. As a result, it is considered that the proposed development will not compromise the amenity of the local environment.

Public interest
Although the proposal received a submission in the form of a petition from local residents during the two-week notification period, the proposed development is not considered to undermine the general public interest in the locality, and is considered to have a wider public interest by providing a variety of housing options in the locality.

OPTIONS:
1. Approve the application in accordance with the recommendation and conditions of consent herein.
2. Refuse the application and provide applicable reasons for refusal.
LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal has been thoroughly investigated and is considered to be suitable to the site, unlikely to cause any significant negative impacts to the surrounding built and natural environment and meets all of Council’s applicable requirements within the TLEP and relevant DCPs. The application has been assessed by Council’s Technical Officers, with no objections being raised subject to the attached conditions of development consent. The proposed attached dual occupancy is therefore considered to warrant approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
2 [PD] Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 & Lot 1 DP 624403 Pacific Highway, Banora Point

ORIGIN:
Development Assessment

FILE NO: DA04/1440 Pt2

SUMMARY OF REPORT:
At the Planning Committee Meeting held 7 September 2005 it was recommended as follows:

"that the application be supported and be referred to the next Council Meeting with appropriate conditions of approval."

As a result of this recommendation the report is resubmitted with all the relevant conditions included.

RECOMMENDATION:

That the Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 and Lot 1 DP 624403 Pacific Highway, Banora Point be approved subject to the following conditions:-

GENERAL

1. The development shall be completed in accordance with development Plan Nos: MPS 1546 DA-03 to 13/A prepared by MPS Architects, dated April 2005, and all submitted supporting documentation, except where varied by these conditions.

2. 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
(b1) 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

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner-building, 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.

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

4. All hand washing basins in food handling and preparation areas are to be fitted with a water temperature measuring device or other means to ensure that warm running water is supplied to the basin via a single spout without recourse to separate hot and cold water taps.

5. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and Notification requirements of the Food Standards Code as called into force by the Food Regulation 2004.

6. The development shall be carried out in accordance with the provisions of the acoustic advice from Max Winders & Associates Pty Ltd within the Noise Impact Assessment for Stage 2 of Ocean View, Corner Pacific Hwy and Terranora Rd, Banora Point dated 3 November 2004 (Ref: L44804/PAK/02-13a).

7. No air conditioning units are to be placed facing any neighbouring residential boundaries unless the noise emitted from any such air conditioning unit has been assessed by a qualified acoustic engineer and if necessary acoustically treated in accordance with such assessment by the qualified acoustic engineer so as to ensure that the noise emitted from any such air conditioning unit does not create or emit offensive noise in relation to any neighbouring residences at any time during operation.
8. All external artificial lighting is to be shielded where required to prevent light spillage onto neighbouring properties or any other area causing a nuisance. Any such shielding shall be installed to the satisfaction of the General Manager or his delegate.

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

10. No retaining walls or similar structures are to be constructed over Council's sewer main.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. Any premises proposing to discharge into Council's sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Council's Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.

12. Section 94 Contributions

(i) 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.

a. Tweed Road Contribution Plan: $26,556
   S94 Plan No. 4 (Version 4.0)
   Sector2_4
Heavy Haulage Component
Payment of a contribution pursuant to Section 94 of the Act
and the Heavy Haulage (Extractive materials) provisions of
Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the
issue of a construction certificate or subdivision certificate,
whichever occurs first. The contribution shall be based on the
following formula:-

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

where:

$\text{Con}_{TRCP - \text{Heavy}}$ 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)

$\text{Unit}$ the unit cost attributed to maintaining a road as set
out in Section 6.4 (currently 2.5c per tonne per
kilometre)

Admin. Administration component - 5% - see Section 6.5

b. Open Space (Structured): $20,873
S94 Plan No. 5

c. Open Space (Casual): $4,477
S94 Plan No. 5

d. Shirewide Library Facilities: $18,451
S94 Plan No. 11

e. Eviron Cemetery/Crematorium Facilities: $3,690
S94 Plan No. 13

f. Emergency Facilities (Surf Lifesaving) $5,781
(REMSHIRE)
S94 Plan No. 16

g. Extensions to Council Administration Offices
& Technical Support Facilities $10,724.49
S94 Plan No. 18
13. 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:

<table>
<thead>
<tr>
<th>Service</th>
<th>Volume</th>
<th>Rate (ET @ $)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water DSP4</td>
<td>25.4</td>
<td>$4230</td>
<td>$107,442</td>
</tr>
<tr>
<td>Sewer Banora</td>
<td>40</td>
<td>$2634</td>
<td>$105,360</td>
</tr>
</tbody>
</table>

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.

14. All cut and fill earthworks are 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 to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work. The development must not result in the ponding of stormwater on adjoining properties.
All fill and cut batters shall be contained wholly within the subject land. 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 to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

15. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

16. 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 1993. 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.

17. Erosion and Sediment Control During the Construction Phase of Development
(a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

(b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of Tweed Shire Council Aus-Spec D7 - Stormwater Quality.

18. Permanent Stormwater Quality Treatment

(a) Permanent stormwater quality treatment shall comply with "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality is deemed to comply with the objectives in 5.5.3.

(b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
(c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of Tweed Shire Council Aus-Spec D7 - Stormwater Quality.

(d) Specific requirements:

(i) Runoff from all impervious road, driveway and car parking surfaces shall be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent stormwater treatment devices shall be sized in accordance with Council’s Development Design Specification D7 - Stormwater Quality, Section D7.12. Full engineering details of treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.

(ii) Temporary stormwater services and treatment measures implemented for the previously approved carpark development (DA03/1645) shall be replaced by permanent services as part of the subject approval. Details of these services must be included as part of a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.

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

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

i) Contours and terraces where the height exceeds 1m.
ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
iii) 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.
iv) 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.

20. A full Food Safety Plan to the satisfaction of NSW Food Authority and Council's General Manager or his delegate shall be submitted prior to issuing the Construction Certificate.
21. Any premises used for the storage, preparation or sale of food is to comply with the relevant provisions of the Food Act 2003 and Food Standards Code. Details of fittings and equipment are to be submitted to the satisfaction of Council's General Manager or his delegate prior to issuing of the CC.

22. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste products. A screened, graded and drained garbage storage area shall be provided within the boundary.

23. All retaining structures shall be designed and constructed in accordance with AS4678-2000 Earth-retaining structures, and full engineering details shall be submitted with the Construction Certificate application. All retaining structures and cut and fill batters shall be wholly contained within the subject land.

24. There is to be no cutting or filling of land over the line of the sewer main without the prior written approval of Council's Director Engineering Services.

25. Prior to the issue of a Construction Certificate, hydraulic analysis is to be provided addressing any requirements for a booster system for fire fighting purposes.

PRIOR TO COMMENCEMENT OF WORK

26. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and required by this consent.

Any application to Council for a Construction Certificate involving civil works must be submitted on the prescribed form and include, where relevant;

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 / access works
   • stormwater drainage
   • water supply works
   • sewerage works
   • landscaping works
   • sedimentation and erosion management plans
• location of all service conduits (water, sewer, Country Energy and Telstra)
• the relevant maintenance manuals (eg. G.P.T’s, water pump station)

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.

27. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

28. A temporary builder’s toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) 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, or
(c) if that is not practicable, any other sewage management facility approved by the council.

29. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, 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.
30. 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.

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

32. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

33. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign 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.

Please note that this sign is to remain in position for the duration of the project.

34. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.

35. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager or his delegate.

36. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

37. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.
Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 “Stormwater Objectives During the Construction Phase of New Development”. This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

DURING CONSTRUCTION

38. 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 or complying development certificate was made).

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

40. A garbage storage area shall be provided in accordance with Council’s "Code for Storage and Disposal of Garbage and Other Solid Waste".

41. 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.

42. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

43. 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.

44. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
45. If the work involved in the erection or demolition or a building:
   a. is likely to cause pedestrian or vehicular traffic in a public place to
      be obstructed or rendered inconvenient; or
   b. building involves the enclosure of a public place,

   a hoarding or fence must be erected between the work site and the
   public place.

   If necessary, an awning is to be erected, sufficient to prevent any
   substance from, or in connection with, the work falling into the public
   place.

   The work site must be kept lit between sunset and sunrise if it is likely to
   be hazardous to persons in the public place.

   Any such hoarding, fence or awning is to be removed when the work has
   been completed.

46. Access to the building for people with disabilities shall be provided and
    constructed in accordance with the requirements of Section D of the
    Building Code of Australia. Particular attention is to be given to the
    deemed-to-satisfy provisions of Part D-3 and their requirement to
    comply with AS1428.

47. Construction site work including the entering and leaving of vehicles is
    to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and
    no work on Sundays or public holidays.

48. 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.

49. 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.
50. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

51. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

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

53. 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.

54. 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.

55. 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.

56. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

57. 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 to the satisfaction of the General Manager or his delegate prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
58. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

59. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be covered to a radius of not less than 25 millimetres.

60. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.

61. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.

62. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

63. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

64. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

65. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

66. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
67. 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.
   L10 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.
   L10 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.

68. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

69. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.

70. The burning of builders waste on site by open fire is prohibited.

71. Construction site work including the entering and leaving of vehicles is to be restricted to between 7am and 6pm Monday to Friday and 8am to 1pm Saturday. No works permitted on Sundays or Public Holidays.

72. All imported fill material shall be from an approved source. Prior to commencement of filling operations, details of the source of fill shall be submitted to the satisfaction of Council's General Manager or his delegate. Documentary evidence must be provided that the fill material is free of any contaminants.

73. No soil, sand, gravel, clay or other material shall be disposed of off the site.
74. 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.

75. The owner or contractor 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.

76. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.

77. 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.

78. The building is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

79. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.
Should additional fill be proposed in the area of the sewer manhole Council’s Engineering & Operations Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of the General Manager or his delegate.

80. The existing driveway and fence on the Terranora Road frontage, do not comply with Council’s Access to Property Policy or AS 2890, regarding pedestrian sight lines. This is to be rectified accordingly.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

81. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with Land and Property Information prior to issue of the Occupation Certificate.

82. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

83. A person must not commence occupation or use of the whole or any part of a new building (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).

84. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

85. 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.

86. Prior to occupation of the premises, contact is to be made with the NSW Food Authority (contact Kelvin Frost on 0427 427 293) to advise that the premises has now been completed and to arrange for a health inspection.
87. Prior to the issue of an Occupation Certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

USE

88. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

90. All loading/unloading to take place within the boundary of the subject property.

91. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

92. The handling and preparation of food for supply to patrons or occupants is to comply with the Listeria guidelines issued by NSW Health.

93. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Food Act 2003 and the provisions of the Food Standards Code as called into force by the Food Regulation 2004.

94. Food handling and preparation is to comply with all requirements of NSW Health.

95. Construction site work including the entering and leaving of vehicles is to be restricted to between 7am and 6pm Monday to Friday and 8am to 1pm Saturday. No works permitted on Sundays or Public Holidays.

96. Delivery of goods to the premises shall be restricted to between the hours of 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays.
97. The servicing of waste facilities shall be limited to between the hours of
7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public
Holidays.

98. Any buses, delivery trucks and the like that are required to remain on
site for periods in excess of two (2) minutes shall have their engines
turned off.

99. The creation of easements, rights of carriageway and restrictions as to
user as may be applicable under Section 88B of the Conveyancing Act
including the following:

i. Easements for sewer (over the existing lines), water supply and
drainage over ALL services on private property.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the
Instrument creating the easement to drain water shall make provision for
maintenance of the easement by the owners of the land.

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.

100. Pursuant to Section 80A(1)(b) of the Environmental Planning and
Assessment Act, 1979 (As amended) and Clause 97 of the Environmental
Planning and Assessment Regulations, 2000 that portion of
Development Consent No. DA02/0495 relevant to Stage 2 of the
development shall be surrendered by lodgement of the prescribed
information, suitably executed, PRIOR to the issue of an Occupation
Certificate.
REPORT:

Applicant: Petrac Group
Owner: Ovst Pty Ltd
Location: Lot 1 DP 543412 & Lot 1 DP 624403 Pacific Highway, Banora Point
Zoning: 2(a) Low Density Residential & 2(e) Residential Tourist
Cost: $6,000,000

BACKGROUND:

This report provides an assessment of application submitted for an aged care facility, comprising:

- Three, partly four-storey building to 12.9 metres in height
- 41, 2 bedroom units (4 with additional study)
- common living area
- common dining area
- recreation and service facilities
- storage tanks for roof water harvesting
- extension of internal access driveway
- levelling off land contours and retaining
- landscaping

Development approval history over the site includes:

- 00.00.1983 Application T4/2577 - approved the Banora Point Motor Inn
- 06.13.2000 Application 0967/2000DA - approved the addition of 12 x 4 bedroom units, public use of existing restaurant and associated parking and landscaping.
- 17.07.2002 Application DA02/0495 - approved the conversion of the 40 existing motel units into aged care units and the addition of 45 additional units in two buildings to the south and east of the motel.
- 25.09.2003 Application DA02/0495.01 - approved inter alia the staging of works under DA02/0495.
- 27.01.2004 Application DA03/1645 - approved a two level car park and filling of the site.

The present application includes a new land parcel, Lot 1 DP 543412, increasing the total site area from 7875m2 to 8602.2m2. The proposed development extends into the additional property (the site of the existing fruit stall) to approximately 16-metres further east than that approved under DA02/0495. It is largely within the previously excavated area of the fruit stall that the proposed development comprises of four storeys. Rather than filling the site, the development is proposing a lower ground level to construct a
store area that will principally accommodate the water tanks for the harvested roof water for re-use.

The remainder of the fourth storey is by definition only. The site, under DA03/1645, has been filled. The reliance on the Tweed LEP definition of natural ground level is, in this instance, referring to a ground line that is below the existing site surface, causing confusion as to the actual number of storeys in the building, which except for the water storage level, is three. In compliance with the statutory provisions the application is supported with a State Environmental Planning Policy No.1 objection in this regard. The Development Assessment Unit agrees that the standard is unreasonable in this case, and raises no further issue as to either the fourth storey component derived by definition or under clause 16 of the Tweed LEP.

Application History

05.11.2004  Application received.
12.11.2004  Application referred to ATM (internal referrals issued)

Advertising  24 November to 8 December 2004. Seven (7) individual submissions and one (1) forming a petition of 60 signatures were received.

22.02.2005  Letters sent to each of the objectors advising that the applicant had agreed to erect a height pole to answer any questions of issue at site meeting.

03.03.2004  On-site meeting with applicant, objectors (approx. eleven), Council Officers. Issues discussed included:

- Traffic
- Loss of views
- Amenity
- Overshadowing
- Height and scale of the development
- Non-compliance with Council Policy


The amended plans are not considered to have provided any real external benefit over those originally submitted. They do however include a significant number of small refinements. The amendments to the building setbacks, in the south and east where most objections appear to originate, are small. It is highly likely on a building of this size that if a physical comparison could be made that the amendments would be largely imperceptible. The following table identifies the change in gross floor area (GFA) and building setback in the more contentious building area (southeast corner).
Ground level

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of units</td>
<td>11 units</td>
</tr>
<tr>
<td>No. of beds</td>
<td>11 x 2 bedroom</td>
</tr>
</tbody>
</table>

Setbacks

<table>
<thead>
<tr>
<th></th>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>4.6m</td>
<td>5m</td>
</tr>
<tr>
<td>East</td>
<td>3m</td>
<td>3.6m</td>
</tr>
</tbody>
</table>

GFA

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>1457m2</td>
<td>1434m2</td>
</tr>
</tbody>
</table>

1st and 2nd Floor

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of units</td>
<td>15 units</td>
</tr>
<tr>
<td>No. of beds</td>
<td>13 x 2 bedroom</td>
</tr>
<tr>
<td></td>
<td>2 x 2 bed with study</td>
</tr>
</tbody>
</table>

Setbacks

<table>
<thead>
<tr>
<th></th>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>3m</td>
<td>3.6m</td>
</tr>
<tr>
<td>East</td>
<td>4.6m</td>
<td>5m</td>
</tr>
</tbody>
</table>

GFA (1st)

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>1462m2</td>
<td>1471m2</td>
</tr>
</tbody>
</table>

GFA (2nd)

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>1439m2</td>
<td>1471m2</td>
</tr>
</tbody>
</table>

Total GFA

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>4358m2</td>
<td>4376m2</td>
</tr>
</tbody>
</table>

Total units

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>41</td>
<td>41</td>
</tr>
</tbody>
</table>

Ration per unit

<table>
<thead>
<tr>
<th>Original plans</th>
<th>Amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>106.29m2</td>
<td>106.73m2</td>
</tr>
</tbody>
</table>

It should be noted in addition to the above that the balconies in the south-eastern area of the building on both series of plans encroach to a minimum of 3-metres. The revised plans illustrate an increased setback of approximately 400mm to the balconies of the two eastern most units (on each level) on the southern boundary. The floor / ceiling heights of the development appear unaltered, in particular it is noted that the levels provided on both series of plans illustrate the following levels:

- Water storage RL 98.550
- Ground Floor RL 101.550
- First Floor RL 104.75
- Second Floor RL 107.450
- Ceiling above RL 109.85
- Roof height (not atrium) RL 111.17
- Atrium (approx) RL 111.87

Maximum building height is approximately 12.9-metres. The site has been filled to a maximum depth (in extreme areas) to a depth of approximately 3.4m although most fill is well below this limit. Additional land levelling will be required to varying degrees, requiring fill to depths of approximately 1.2m.
SITE DIAGRAM:

Lot 1 DP 543412
Lot 1 DP 624403
OCEAN VIEW SUPPORTED LIVING COMMUNITY
TERRANORA ROAD, BANORA POINT
OVST PTY LTD

SHADOW DIAGRAM

JUNE 22, 3pm

JUNE 22, 12pm

JUNE 22, 6pm

DECEMBER 22, 3pm

DECEMBER 22, 12pm

DECEMBER 22, 6pm
Environmental Building Design

THIS IS PAGE NO 105 OF THE AGENDA OF THE TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 21 SEPTEMBER 2005
CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000

The land is zoned 2(e) Residential Tourist and 2 (a) Low Density Residential. Aged care facilities are permitted in each zone. The application at section 3 of the Statement of Environmental Effects (SEE) demonstrates compliance with the zone objectives.

North Coast Regional Environmental Plan 1988

The application SEE considers the relevant sections of the Plan (cl.15, 32B & 43), as satisfactory. No issues are raised with the conclusions of the SEE.

State Environmental Planning Policies (SEPP)

SEPP 1 - Development Standards

The application is accompanied with an objection under State Environmental Planning Policy No.1 - Development Standards, as it relates to the fourth storey components of the building, at Appendix E of the SEE. The submission states among other things: -

- **There are special circumstances in this instance as the site has been substantially modified by past development and has recently been filled (with approval) to achieve suitable site grades to accommodate housing for the elderly.**

- **The departure arises in relation to the height of part of the building only and primarily as a consequence of the former topography of the site. Modifying the design of the northern part of the building to technically comply with the three (3) storey standard would achieve little, if anything in terms of altering amenity impacts of the development on adjoining properties. The rear or southern portion of the building (closest to adjoining dwellings) complies with the height standard and would not require alteration.**

- **The variation requested would be appropriate on merit having regard to its relationship with the existing Stage of development and the unusual circumstances of this case with respect to the prior approved filling of the site…[t]he proposal would not set an undesirable precedent.**
• Despite its height, the building would be articulated and architecturally treated to reduce the apparent bulk and scale. The development would represent a significant and positive addition to the built character of the locality.

• The height of the development would not result in adverse amenity impacts in the locality with respect to,

• Privacy,

• Shadow impacts, and

• Visual impacts.

• The height and scale of the development is compatible with the existing Stage 1 building and is appropriate to its location.

• The development appropriately maximises the delivery of supported Senior Living accommodation in a location which is highly accessible and well serviced by public transport and on a site which has been specifically prepared for this form of development.

The proposed development will have a direct impact on a small number of adjoining properties, in particular the two low set dwellings to the south and to a lesser extent the elevated properties to the south also. Loss of views will occur, but a reduced level of view sharing will generally be provided to most properties. The low set dwellings to the south will be most affected, losing views northward across the subject property. It is noted however, that this would occur, albeit on a lesser scale, if the approved, but not constructed development, was to proceed. Development of the additional land could also potentially occur with a result not that dissimilar to that proposed in this application. On this basis, and having consideration to the appropriate building height for a three-storey building, the SEPP 1 objection is acceptable.

SEPP - Seniors Living

This application is not proposed under the Senior Living SEPP as it does not specifically fall within a nominated category of development. However, in the absence of any Council controls for aged care facilities it has been designed generally in accordance with the SEPP requirements.

SEPP 71 Coastal Protection

The SEE at section 3.3.4 provides an assessment of the application against the matters for consideration under the SEPP. The assessment concludes that the proposal is consistent with the aims of the policy. No issues are raised to the assessment or conclusion.
(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no draft EPI's that affect the assessment or recommendations in this report. It should be noted that LEP Amendment No.46, which comprised the re-wording of the definition for 'storey', has been adopted. Under the savings provisions of clause 16(3) the amended definition does not apply to this application.

(a) (iii) Development Control Plans (DCPs)

An assessment of on-site car parking is provided at section 3.4 of the SEE. Essentially the first stages of the seniors living facility provided car parking at a rate of 1 space per 5 dwellings. The stage 2 proposed development is to provide 1 space per 2-bedroom unit. In total, 49 spaces would be required with an additional 1 space per 2 staff (maximum 12), requiring at total of 54 spaces. The development provides for 57.

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

Satisfactory.

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

The proposal will overshadow three dwellings to the south during winter months with limited periods of overshadowing during summer. Winter sun is the more critical period as it provides a passive heat source. The lower set dwellings to the south will be adversely restricted on their northern elevation in this regard. It is noted that the existing site vegetation would presently cause, albeit to a far lesser extent, a similar situation. The dwelling to the east would be affected during limited times in both seasons. The application is supported with a shadow diagram illustrating this point. The impacts of overshadowing are not desirable. Neither are they easily overcome, as this would require a significant reduction in the building.

Loss of views will, to varying degrees, occur to the southern dwellings. The higher set dwellings will lose some views to the north, but will retain some views to the east. The lower set dwellings will be impacted to a greater extent. Neither the Applicant's nor Objector's point of view are concurred with on this matter, as they reflect the opposing extremes, in particular the Applicant's contention that the issues raised by objectors are in most cases 'unfounded perceptions'. The answer lies elsewhere, accepting that impacts will occur, but also that access to views and sunlight will not be obliterated. The issues raised in the submissions are real, but must be treated with an appropriate level of determining weight. In this instance, the need for significant modification or refusal of the application is not evident.
The building is of a high standard and utilises passive design systems, as well as rainwater harvesting. It will also provide a valuable community asset, serving the needs of the Shires ageing community. On merit, the development is satisfactory.

(c) **Suitability of the site for the development**

The site has previously been filled to provide a level platform to cater for the proposed development, noting that an essential component of aged care accommodation is relatively flat gradients. The approved development under DA 02/0495 is not that dissimilar to this application in many respects. The benefit of the present application is the level ground, use of passive cooling, rainwater harvesting, and architectural merit. The site is suitable for the proposed development.

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

The application was advertised from 24 November to 8 December 2004. Seven (7) individual submissions and one (1) forming a petition of 60 signatures were received. In addition, several other submissions, most notably from a single household, were received after the closing of the advertising periods and after the on-site meeting. The latter submissions did provide any additional significant issues.

The following table identifies some of the broader issues raised in the submissions:

<table>
<thead>
<tr>
<th>OBJECTION</th>
<th>IMPACT ASSESSMENT</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>The building exceeds the 3-storey height limit and should not be allowed.</td>
<td>There is a mechanism that permits this to occur, where it demonstrated that the standard is unreasonable or unnecessary. This issue has been addressed under SEPP 1 in this report, as acceptable.</td>
<td>Does not warrant amendment or refusal of application.</td>
</tr>
<tr>
<td>Traffic impact</td>
<td>The car parking and access arrangements have previously been assessed in DA02/0495, which provided for more units in total. In that application the following was noted: Council's Traffic and Transport Engineer advises that sight distances from the site exceed the minimum standard and that Terranora Road has adequate capacity to cater for the anticipated traffic increase.</td>
<td>Does not warrant amendment or refusal of application.</td>
</tr>
<tr>
<td>OBJECTION</td>
<td>IMPACT ASSESSMENT</td>
<td>COMMENT</td>
</tr>
<tr>
<td>------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>Loss of airflow</td>
<td>This objection was raised predominantly by high set properties that are unlikely to experience changes in local climatic conditions. The lower set properties may however experience less strong breezes.</td>
<td>Does not warrant amendment or refusal of application.</td>
</tr>
<tr>
<td>Loss of views and sunlight</td>
<td>This issue has been addressed in the body of the report.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>Contravenes the zoning of the land.</td>
<td>The proposal accords with the zoning of the land.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>The building is bulky</td>
<td>The building is large, but it is also quite articulated and incorporates good architectural design and relief.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>Stormwater</td>
<td>The impervious area of the proposal is not that dissimilar to the previously approved but not constructed development. It was assessed and appropriately conditioned to cater for the increased runoff. Preliminary advices indicate that this proposal does not pose any significant design challenges or constraints.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>The proposed development will decrease property values.</td>
<td>There exists no evidence to support the claim of loss of property value or vice versa.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>The building is a monstrosity</td>
<td>Previously addressed.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
<tr>
<td>Once approval is in place for higher density living the future usage may be altered, increasing the impact of the development.</td>
<td>It is a fact that many aged care housing developments in NSW have been constructed under the guise of aged care only to later have the approval amended to residential. However, this is a matter, that should it arise, will be dealt with at a future time. The complex has been designed for aged care facilities.</td>
<td>Does not warrant amendment or refusal of application</td>
</tr>
</tbody>
</table>

Included in the submissions received after the on-site meeting was that the height pole erected for the inspection was incorrect. It was noted that at first the attendees first thought it represented the maximum height of the building, but this was not the case as it represented the south-eastern corner of the building and its height, which was less than the apex of the roof located in the centre of the building. The Applicant submitted a Surveyors Certificate certifying the height of the pole.
(e) Public interest

The proposal provides good and efficient design. It caters to growing areas of the Shire’s population and complements the existing site developments. There are some limited impacts of this proposal on a small number of adjacent properties and whilst they are not desirable they are neither easily overcome or of a magnitude that warrant significant modification or refusal of the application. The public interest is generally unaffected by this application, and it is not considered in the broader public interest to deny approval to acceptable development proposals.

OPTIONS:

1. Support the application and request the Director Planning & Development to refer conditions for approval to the next Council Meeting.

2. Refuse the application and provide reasons for doing so.

3. Defer the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Applicant has a right of appeal should they be dissatisfied with the determination, this could have financial implications via legal costs.

POLICY IMPLICATIONS:

Approval of appropriate, well founded, SEPP 1 objections will not lead to negative policy implications.

CONCLUSION:

The development proposal has merit and is suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
REPORTS FROM THE DIRECTOR GOVERNANCE & CORPORATE SERVICES

3 [GC] AC2005-102 Supply of New Geographic Information System (GIS)

ORIGIN:
Information Systems & Technology

SUMMARY OF REPORT:

A Geographic Information System (GIS) is mapping based software, including digital cadastre and aerial photography used to manage a range of location based information to support the varied business needs of the organisation. The integration between GIS and other corporate systems such as property, financial, records management and asset management provides staff with a powerful decision making tool.

Council has conducted two separate independent reports into the current and future uses of GIS and spatial information within the organisation. One of the recommendations of the report was to implement new GIS technology that will efficiently manage spatial information and deliver a consistent and reliable product to all staff.

A tender was released for the supply of the new GIS and six tenders were received:

1. ESRI Australia
2. Integrated Facility Management
3. Intergraph
4. MapInfo
5. NGIS Australia Pty Ltd
6. Open Spatial

This report recommends the award of the tender to Open Spatial for the price of $234,858, excluding GST, with an approximate five (5) year cost of $420,000.

RECOMMENDATION:

That Contract AC2005-102 - Supply of New Geographic Information System (GIS) be awarded to Open Spatial for the price of $234,858, excluding GST, with an approximate five (5) year cost of $420,000.
REPORT:

As per Summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for the new GIS System was carried over from the June 2005 Quarterly Budget Review

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Confidential Attachment - Supplementary Confidential Information - AC2005-102
   Supply of New Geographic Information System (GIS) (DW 1267202)
REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

4 [EO] Tender EC2004-155 Supply & Delivery of one (1) 15,000 Kg's GVM Tipper Unit

ORIGIN:

Works

FILE NO: GC12/4 EC2004-155

SUMMARY OF REPORT:

Council has received a request from Auto Group Commercials (QLD) Pty Ltd to withdraw from the tender EC2004-155 and to sell Council's surplus to requirement unit at their next auction for no selling fee.

RECOMMENDATION:

That:-

1. Council cancels its contract with Auto Group Commercials for the sale of Plant No 9768 Isuzu FVR900 Truck.

2. Plant No 9768 Isuzu FVR900 Truck be sold at auction.
REPORT:

At Councils meeting dated 15 December 2004 Council resolved to purchase a 15,000 kg's GVM Tipper from Gold Coast Isuzu and sell the existing [surplus to requirement] Isuzu FVR 900 tipping unit to Auto Group Commercials for the price of $60,150.00 (inclusive of GST, being $5,468.18)

The new tipper truck has just been delivered. This is 10 months after Auto Group Commercials first inspected and valued the existing truck prior to submitting their tender. As a consequence of the depreciation in value of the existing truck, changed market conditions and additional wear and tear on the truck over the 10 months, Auto Group Commercials have requested that they be released from the contract to purchase the truck. In compensation, Auto Group Commercials have offered to consign the truck to their next truck action and waive the usual selling fee.

It is agreed that the market value of the truck will have changed significantly in the 10 month period. The lengthy delay in delivery of the new replacement truck is not in the control of Auto Group commercials. Accordingly their request to be released from the contract to purchase the existing truck is reasonable. The proposed disposal of the truck at auction will ensure Council receives the current market value.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.