

Minutes for this meeting will be confirmed at the Ordinary Committee Meeting to be held in the Council Chambers, Council Administration Building, on 3 February 2005 commencing at 5.00pm



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
(PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE)
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
16 DECEMBER 2004

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COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
(PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE)
16 DECEMBER 2004

Mayor and Councillors

NOTICES OF MOTION

ASBESTOS CLEARANCE CERTIFICATES

Purpose:

Cr Smithers has given notice of his intention to move:

1. *"That Coffs Harbour City Council require an asbestos clearance certificate prior to granting consent to alterations to buildings built prior to 1986.*

That the certificate be provided by a person accredited in asbestos identification and removal and shall specify whether:

- a. *the property has no asbestos discoverable by visual inspection;*
 - b. *that the property has asbestos in a form not currently dangerous. A diagram should be provided and opinion given about if (or when) asbestos may become dangerous;*
 - c. *that dangerous asbestos is present and should be removed.*
2. *That a publicly available register of asbestos clearance certificates be made available.*

cont'd

Asbestos Clearance Certificates (cont'd)

General Manager's Comments:

Only fibro products manufactured before 1987 contain asbestos. The use of asbestos in fibro sheets was discontinued by 1982, in corrugated sheets by 1984 and all other products by 1986.

Asbestos cement products (sheeting, drainage and flue pipes, roofing shingles and guttering) only become a potential health risk when the product is damaged or work is undertaken which may release fibres; otherwise there are no significant health risks.

Council currently has the following condition on any development consent where asbestos products are suspected:

All materials containing asbestos are to be handled in accordance with the relevant requirements of WorkCover NSW, the Occupational Health and Safety Act and Australian Standard AS2601-2001 *"The Demolition of Structures"*.

However, the above condition would not apply to work that does not require development consent, such as kitchen/bathroom renovations, replacement of guttering etc.

Council has pamphlets available to the general public at its customer service counter. Information is also readily available from other sources such as WorkCover NSW Department of Environment and Conservation and on the worldwide web.

The State Government is currently investigating legislative changes requiring the compulsory issue of an asbestos certificate when a property is sold and/or building work is proposed. Whilst it could be helpful to ensure that purchasers are aware of the status of properties with respect to the presence of asbestos products, it could be quite impracticable and inappropriate to require removal of in-tact asbestos building elements prior to sale. The latter could have major ramifications for the Australian housing market, home owners, with very questionable health risk outcomes. The issue of asbestos should be dealt with on a national basis or at the very least at State level and not have varying requirements from one Local Government Area to another.

A suggested recommendation would be:

That representations be made to the New South Wales State Government to introduce regulations for the control of asbestos during building works and that a certificate be provided to the purchaser of any building constructed prior to 1987, advising on the status of the building.

REVIEW PURCHASING FROM JAMES HARDIE INDUSTRIES

Purpose:

Cr Smithers has given notice of his intention to move:

"That Coffs Harbour City Council, when purchasing, review product availability from competitors of James Hardie Industries and to include as part of its criteria of choice:

- a) the respective corporate reputation of those suppliers; and*
- b) the relative acceptance of those suppliers in delivering secure occupational and health outcomes for victims of industrial injury."*

General Manager's comments:

At the recent National General Assembly of Local Government the attached motion moved by Gosford City Council was carried unanimously.

The Australian Local Government Association advised that they took legal advice prior to finalising this motion. Concern was expressed at breaching the Trade Practices Act and other legal issues.

Advice has also been sought from the Legal Office at the Local Government and Shires Association. This advice, in part, is that Council may also wish to review product availability from competitors of James Hardie and, in doing so, take into consideration the respective reputation of those suppliers and the relevant acceptance of those suppliers in delivering occupation and health outcomes for victims of injury.

This would be in line with the resolution that was put forward at the recent Conference of the Australian Local Government Association.

The above motion appears to be in keeping with the spirit of the motion attached.

Attachment:

Motion 5

Mover: Gosford City Council

JAMES HARDIE INDUSTRIES

That this National General Assembly of Local Government condemns the actions of James Hardie Industries in the strongest possible terms for not accepting responsibility to fully fund the legitimate claims brought by asbestos victims against its former subsidiaries.

The Assembly calls on James Hardie Industries to adequately provide for current and future asbestos victims.

Further, councils and contractors are encouraged to review product availability from the competitors of James Hardie Industries and to include as part of their criteria of choice:

- a) the respective corporate reputations of those suppliers; and
- b) the relative acceptance of those suppliers in delivering secure occupational and health outcomes for victims of industrial injury.

Councils are encouraged to review policies around their employees, local workers and residents who have, or may come, in contact with asbestos during their course of their duties.

The General Assembly calls on James Hardie Industries to meet with the ALGA Executive to discuss appropriate solutions to local government's concerns as expressed by Assembly delegates; and

Request ALGA to inform the United Cities and local government of this position and seek their support internationally.

Carried unanimously

GENERAL MANAGER'S REPORT

23 COFFS HARBOUR NURSING HOME - WATER AND WASTE WATER LEVY

Purpose:

To advise Council of an inadvertent procedural error.

Description of Item:

At its meeting held on the 4 November Mr Patrick Jamieson spoke at the Public Forum.

Subsequently, a Notice of Motion was submitted on this matter and listed on the agenda for the meeting of the 18 November. A copy of the Notice of Motion is attached.

Arrangements were made with Mr Patrick Jamieson, Solicitor, Koops Martin, for Mr Stephen and Mrs Diane Profke to make a public address. Unfortunately, the speakers' names were inadvertently not included on the list distributed to Councillors. The speakers were then precluded from speaking at the meeting.

The Notice of Motion was moved at the meeting and was defeated.

Issues:

This error has been investigated and an apology conveyed to Mr Jamieson.

Council has dealt correctly with its listed agenda for the meeting of the 18 November but it would appear fair to give the speakers the opportunity to raise with Council those issues they intended to raise on the 18 November.

This report provides this opportunity.

Mr Jamieson has been advised to attend for the purpose of addressing Council.

Council should be aware that the 'certificate to occupy' has been issued following payment of the Water and Sewerage levies on a 'without prejudice' basis, namely \$122,725.

Recommendation:

That the charges as levied under Council's Water and Sewer Developer Services Plans as adopted by Council on 17 July 2003, be confirmed.

M J Ferguson
General Manager

Attachment:

COFFS HARBOUR NURSING HOME - WATER AND WASTE WATER LEVY

Purpose:

NOTICE OF MOTION

Cr Bonfield has given notice of her intention to move:

"That Council reconsider the water and waste water levy imposed on the Coffs Harbour Nursing Centre and reinstate the original levy of \$19,547."

General Manager's comments:

The history of this development application is as follows:

6 March 2003	DA 1276/03 lodged with Council
13 March 2003	Letter to applicant asking for further information
19 March 2003	Meeting with designer to discuss Council's further request for information
3 April 2003	Additional information requested received by Council
16 April 2003	Notification letters sent to adjoining owners
16 April 2003	Internal referrals to Engineering, Environmental Services and Parks/Recreation
19 April 2003	DA advertised in newspaper
5 May 2003	Notification period complete
8/19 & 26 May 2003	Responses from internal referrals received
26 May 2003	Report prepared for Council's consideration
5 June 2003	Report considered by Council
11 June 2003	Development Consent 1276/03 issued
13 June 2003	Development Consent collected by the applicant

The application was reported to Council for determination as the value of the work was estimated at \$2.2 million and proposed the construction of angle parking within the Victoria Street road reserve.

As can be seen from the above this application has been processed in the normal manner.

17 April 2003	Council adopted Water and Sewer Developer Services Contribution to take affect 1 May 2003 (contributions \$172,790.00).
4 July 2003	Council amended condition 19 of the consent to allow payment of contributions within 12 months of date issued of first Construction Certificate or prior to issue of final occupation certificate (Construction Certificate was issued on 8 July 2003 and therefore the applicant is in breach of consent).
17 July 2003	Water/Sewer Developer Services Plans amended by Council for nursing homes (current contributions \$125,262.88)

Since the issue of the consent there have been numerous meetings and letters between the applicant, applicant's solicitor, Councillors and Council staff on the issue of contributions applicable to this development.

Council by letter dated 26 October 2004 offered the applicant the following compromise:

1. A commitment to full payment of contributions.
2. An initial payment of 50% prior to the issue of any Occupation Certificate.
3. The remaining payment to be over 3 years, in equal instalments.

Council has obtained legal advice that the contributions levied have been done in a legal manner.

Potential for varying the contribution

Should the developer wish to request Council to reduce the required contributions, the only legal way of doing this would be for the applicant to lodge a Section 96 Modification to the Consent issued in June 2003. However, physical work on this development commenced in August 2003 and the building is now complete. The conditions within the consent would be viewed as being "spent". It is therefore questionable whether Council has the legal ability to consider a request for a modification to the condition relating to contributions. There is contradictory case law in respect of this issue. Should the developer have been unhappy with the contribution rate that was negotiated during a substantial number of meetings in 2003, his appropriate course of action would have been to lodge a Section 96 Modification or an appeal to the Land and Environment Court prior to commencing the development. In addition to the legal aspects of amending a Condition of Consent, should Council wish to vary the contribution level for a single development, it would need to vary the contribution rates for that type of development within the relevant Developer Services Plan (DSP). Legislation requires that once contribution rates are set within a DSP, the means of amending these is by way of a review of the plan involving community consultation, i.e. a revised plan would need to be developed and adopted. As Council would be aware, this would be a lengthy process and it would not be recommended as a means of assisting a single development.

The only legal avenue Council has to reduce these contributions is to process an ex-gratia payment as an incentive towards the economic development of the city.

Such a donation is strongly discouraged given the effect such a precedent will have on contributions paid during the transition period and councils exposure to further claims. Contributions paid during the transition period were substantial and Council's exposure for retrospective reductions would be in the order of \$500,000.

Arrangements negotiated and accepted by the applicants for the staged payment of contributions, and concessions already granted for the reduction in water and sewer contributions based on a lower rate per bed are considered fair and reasonable in the circumstances.

In carrying out the development, the applicant has in legal terms accepted the Conditions of Consent including any contributions.

DSP's are developed on a user-pays basis under guidelines created by the State Government and ICAC. Government guidelines indicate that Councils not committed to user-pays basis contribution plans may be penalised when subsidies for capital works are allocated. What this means is that should Council not charge this developer the real cost of water and sewerage provision, Council may receive a reduced Government subsidy.

PLANNING, ENVIRONMENT AND DEVELOPMENT REPORTS

PED41 DEVELOPMENT APPLICATION 1708/04 - SHOPPING CENTRE - LOTS 1 AND 2 DP 1063045, LOT 30 DP800261 AND LOT 3 DP 536819, MOONEE BEACH ROAD, MOONEE BEACH

Purpose:

This report describes Development Application 1708/04 for the construction of a retail shopping centre at Lots 1 and 2 DP 1063045, Lot 30 DP 80026 and Lot 3 DP 536819, Moonee Beach Road, Moonee Beach. Conditional approval of the application is recommended.

Description of Item:

Initial Proposal

The initial application, lodged in May 2004, proposed:

- 2-stage supermarket 2,500m² and 950m²
- Liquor store 200m²
- Mini Major Stores 1,390m²
- Bulky Goods Stores 3,650m²
- Specialty Stores 1,720m²
- Carparking 438 spaces (63 lease spaces on tavern site)
- Pylon Signs up to 18.5m high
- Southern boundary setback 3.5m
- Second access to Moonee Beach Road (east of Child Care Centre), via right-of-way (ROW) proposed as part of Stage 2
- A conceptual Master Plan detailing possible uses and layout for the site corner of Moonee Beach Road and the new collector road

Current Proposal

- One Stage Supermarket 3,500m² (increased by 50m²)
- Liquor Store 200m² (no change)
- Mini Major Stores 1,390m² (no change)
- Bulky Goods Stores 3,730m² (increased by 80m²)
- Specialty Stores 2,040m² (increased by 320m²)
- Carparking 376 spaces (decreased by 62)
- Pylon Signs reduced to 10m high
- Southern boundary setback 3m (from 3.5m)

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

- Second access to Moonee Beach Road (east of Child Care Centre) via right-of-way (ROW) - deleted
- A conceptual Master Plan detailing possible uses and layout for the corner site of Moonee Beach Road and the new collector road - deleted
- Intersection treatment corner Highway and Moonee Beach Road

The application was amended in November/December 2004 to the Current Proposal to address matters following a preliminary assessment of the development, by the requirements of the Roads and Traffic Authority (RTA), to respond to the proposed rezoning of the site from a Neighbourhood Business Zone to a Town Centre Zone (following Council's adoption of the Moonee Development Control Plan (DCP) and as a result of design developments during the application phase.

The amendments to the application differ in only minor respects from the original application. On this basis the amended proposal was not further notified or advertised.

The shopping centre is located off a central carpark. The supermarket, mini major store and specialty shops are located on the southern part of the site and are primarily accessed via an open mall. Some of the specialty shops face directly onto the carpark.

A bulky goods section is located on the eastern part of the site and is accessed off the central carpark. A second level bulky goods tenancy is located above the loading dock and is oriented towards the new collector road.

The loading dock is accessed off the new collector road and this area is concealed (being positioned below the second level bulky goods tenancy), the accessway to the dock is also positioned below the level of the new collector road.

The building footprint observes a minimum 20 metres setback from the Pacific Highway boundary and 3 metres from the southern boundary.

Substantial earthworks are proposed that bench the current shopping site to a flat platform. Up to 10,000m³ of soil will be imported onto the site. Despite this degree of landform modification, the site will still sit well below the Pacific Highway pavement level.

The site's primary access is via the new collector road. A secondary access is via a ROW across the tavern site. Delivery vehicles will utilise the collector road access point.

Building Design

The applicant has submitted an Architectural Design Report and a Finishes and Colours Palette with the application. The architectural plans and the palette will be available for review in the Councillors' Room prior to the meeting. Some comments from the Design Report include:

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

The intent is to provide for a built form aesthetically sympathetic to the local coastal environment through form and materials, contemporary in design, and with movement and interest whilst giving maximum exposure for retailers. The resultant form presenting appropriately scaled building elements with exposure to both the Pacific Highway and collector road frontages.

The "open mall" concept for the retail centre makes the most of the typically warm local environment by promoting external retailing within a controlled atmosphere. The main entrance to the supermarket is shaded under an angled canopy, which is proposed to be clad in a clear roof sheet with slatted timber battens to the underside. This will allow only diffused light to filter into the mall area. It is also proposed to hang high-level tropical fans to the underside of this roof to promote air movement within the space. The hot northern sun will be controlled via the use of carefully designed timber battens which block the summer sun, whilst allowing winter sun to enter the mall.

The contrast between the mall/retail area of the centre, with that of the bulky goods area, has been achieved through contrasting textures, colours and building materials. Canopy/verandah elements feature extensively, with lined cantilevered canopy structures both horizontal and angled, integrating building elements along the façade and providing all-weather pedestrian links, and well-lit zones for pedestrian movement and tenancy retailing.

The potentially austere southern elevation has been treated with architectural articulation and natural landscaping to achieve a more sympathetic boundary elevation. The height of the wall has been managed so as to minimise the overshadowing to the possible future residential development to the south.

Carpark

The carpark will be landscaped and contain a set-down / pick-up area, a bus stop and shelter and a designated pedestrian path between the tavern and shopping centre entrance and from the shopping centre to the residential land to the south of the site.

Carparking

The development proposes 276 at grade spaces, 67 spaces off the collector road to service the upper level bulky goods centre, and 33 spaces within the concealed loading dock area.

As part of the development the tavern site will be upgraded to accommodate a minimum of 145 constructed spaces. A Right of Way (ROW) will be reconstructed on the tavern site to ramp up to the shopping centre building platform. This ramp will comprise a bus bay, pedestrian ramp and 22 car spaces for the tavern site.

Signage

Signage for the site, including the existing tavern/shops, is proposed to be rationalised.

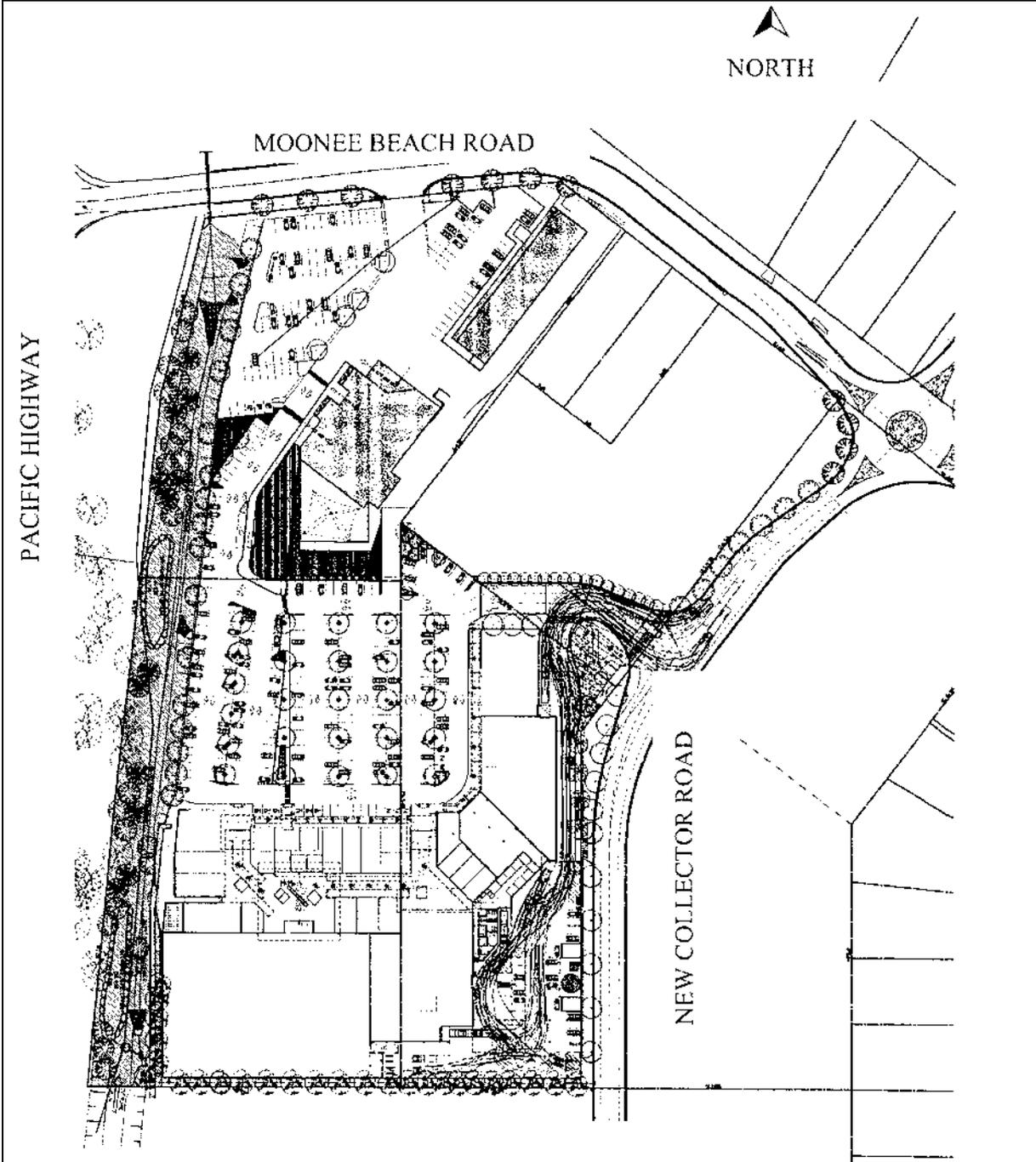
Signage for the tavern and the new centre will comprise two pylon signs (1 x 6m and 1 x 10m high). Signage off the collector road is a new 6m high pylon sign. The shopping centre building will contain conventional wall and awning signage.

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

Staging

The development will be staged, with Stage One comprising earthworks and landform modification and Stage Two construction of the development.



cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

Sustainability Assessment:

- **Environment**

The site consists of grassland and scattered trees. There is a strip of native trees along the eastern boundary of the site. The property is not mapped under Council's City-wide Koala Plan of Management or Draft Vegetation Strategy. The site is located within the Coastal Zone. Environmental constraints for the site and proposed development have been investigated and reviewed in several reports that accompany the application, including flora and fauna, acoustic, stormwater quality and drainage, sediment and erosion control, traffic management, and geotechnical considerations. Existing Highway buffer planting within the Highway road reserve will be preserved and the adjoining Environmental Protection Zone will be enhanced as part of the project. Shade tree planting will be provided in the carpark. Water quality controls will be incorporated into the stormwater management system. Substantial earthworks are proposed as part of the project, to bench the sloping site to a flat carparking and building platform. These landform modification works will be subject to environmental controls.

- **Social**

The development is likely to have a positive social impact on the existing and expanding Moonee urban area. Vehicle trips for shopping and service needs will be reduced as a result of this development. The centre incorporates pedestrian access, disability access and facilities, bus, taxi parking and set-down provisions within the site. Potential adverse social impacts from noise and lighting are subject to development consent conditions. The shopping centre will provide a hub/meeting place for residents and visitors. The development incorporates "safer by design" provisions.

- **Economic**

The proposal will provide for district retail and commercial services as called up in the recently adopted Moonee DCP. The Economic Impact Assessment that accompanies the application details the following economic outcomes:

- Capital investment of \$13.5 million.
- Approximately 135 construction jobs plus another 215 jobs created in the flow-on effect.
- Construction wages of \$6.8 million.
- On-going wages for \$3.9 million from jobs created on-site.
- Higher levels of retail service reflected in a reduction of escape spending, and improved retail choice.

Broader Economic Implications

The development will provide an impetus to the Moonee residential release area and improve the retail and commercial service needs for the northern parts of the City.

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

Management Plan Implications

Nil.

Consultation:

The application has been reviewed by the Regional Advisory Committee Traffic, the Access Advisory Committee, Roads and Traffic Authority, Department of Infrastructure Planning and Natural Resources (DIPNR), NSW Police and Council's technical sections. Agencies, committees and technical sections have raised no objections to the proposed development subject to a number of conditions being applied to the development consent.

The application was advertised and notified in accordance with Council's Notification DCP. The exhibition was extended to three weeks in lieu of the normal two-week period. In addition, a copy of the application was exhibited at the Moonee General Store.

In response to advertising and notification, 18 submissions have been received by Council. Of the 18 submissions one submission is from the Moonee Action Group (representing 29 persons), one submission is from a solicitor representing the Moonee Tavern proprietors and the remaining 16 submissions are from local residents.

Issues Raised by Objectors

• **Masterplan for Property, Corner of Moonee Beach Road and New collector road**

The initial application detailed a conceptual Master Plan for this location, proposing a medical centre, fast food premises and a convenience store/petrol station. It did not form part of the application, however, significant concerns were raised in relation to this concept plan.

- *The Master Plan for this location has been deleted from the application.*

• **Village Identity**

Concerns include blatant disregard for village identity by the proposal, the development more akin to a township and not a hamlet or village.

- *The development accords with the provisions of the recently adopted Moonee DCP. The Moonee Release Area proposes a minimum dwelling yield of 1,686 accommodating an additional 4,558 people. The proposal is appropriate in bulk, scale and size for this urban development area.*

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

- **Over-Development**

Concerns include that buildings are of a bulk and scale unacceptable to the visual amenity of the area, the extent of retail development akin to a city, not a village, the proposal considered too large for the Moonee Beach Community.

- *The proposal will serve the "town centre" of Moonee with a future additional population estimated at 4,558. It is not intended to service the current village of Moonee only. The development is located adjacent to the Pacific Highway and is accessed off Moonee Beach Road and a new collector road. Land adjacent to the site is zoned for mixed uses including medium density housing.*
- *The proposal is considered of acceptable bulk, scale and height and not an over-development of the site. The proposal has a Floor Space Ratio of 0.52:1. Council's Business Lands DCP sets a maximum Floor Space Ratio for Town Centre Zones (the proposed zoning of this site) of 1:1.*

- **Design**

Concerns include that the development is unimaginative, opportunistic, greedy, ugly, has insufficient buffers to address visual amenity, will be unsightly from the south, the design will invite vandalism and anti-social behaviour, disregards the needs of the existing community and that the building should be reduced in size to provide adequate parking. The proposal should have a coastal design theme and incorporate Water Sensitive Urban Design inclusions

- *The proposal is considered acceptable in design terms; it includes a coastal design theme through materials and form. The building has been positioned on the site so as not to dominate the Highway or the existing tavern and shops. Importantly, the development incorporates a "shop-front" to the new collector road as opposed to an open back-of-house loading and parking area as initially offered by the developer in the pre-lodgment meetings with Council staff. The building observes a 3 metre setback to the south boundary. This elevation will be treated with landscaping and timber screens fixed to the wall of the building to break the linear nature of this façade. The application incorporates "safer by design" inclusions and the consent conditions reinforce these provisions to mitigate the potential for anti-social behaviour at the centre.*

- **Hours of Operation and Noise Impact**

Concerns relate to the proposed operating hours of 6am to 12midnight (seven days) and principal delivery hours of 6am to 10pm (seven days) for the supermarket conflicting with the existing community lifestyle. Further concerns relate to the impact of noise from truck movements servicing the centre. The loading dock is not considered to be suitably located in terms of heavy vehicle movements (and noise generation).

- *The consent has been conditioned to restrict operating and delivery hours to more appropriate times having regard to location and residential amenity considerations. The consent also requires the development to incorporate noise abatement measures in accordance with the acoustic report that accompanied the application.*

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

- **Signage**

Concerns that proposed signage (up to 18.5m high) is incongruous, over-exacerbated, unacceptable and an over-development.

- *The consent has been conditioned to regulate signage to more appropriate heights and scale. The applicant and the owner of the Moonee Tavern site have agreed to signage rationalisation at this nodal location in the Moonee Release Area. Pylon signage adjacent to the Highway is to be subject to a separate application.*

- **Neighbour Impacts**

Neighbour impact concerns relate to noise and headlight glare to neighbouring residential premises, privacy impacts, off-site lighting spillage, amenity impacts and traffic conflicts from a future stage access.

- *The consent has been conditioned to address noise, hours of operation, "safer by design" inclusions, e.g. closed circuit TV systems. The Stage Two driveway (east of the Child Care Centre onto Moonee Beach Road) is not now part of the application. The removal of this access from the application mitigates concerns re headlight glare affecting neighbouring properties.*

- **Accessibility**

Concerns that the design does not support pedestrian access, no taxi zone, no wet weather pick-up area, bus stop too removed, bicycle storage not provided, inaccessible amenities, no equitable or safe pedestrian facility for disabled.

- *The current proposal has addressed these concerns, the proposal now incorporates an on-site bus stop and set-down / pick-up area, pedestrian connections from the tavern to the centre and from the centre to the southern residential precinct. Council's Access Advisory Committee has reviewed the project and the application has satisfactorily addressed matters raised by this Committee.*

- **Traffic**

Concerns are raised in relation to the Highway and Moonee Beach Road intersection, that Moonee Beach Road requires upgrading, that internal access is convoluted and that the service route and service area is unsatisfactory.

- *The application has been reviewed by the RTA and the Regional Advisory Committee Traffic. Approval terms to the Highway T intersection upgrade have been issued by the RTA. This current under-performing intersection will be upgraded prior to occupation of this development. The service area is to be accessed via the new collector road; the service area is concealed and is supported as this arrangement performs satisfactorily in terms of visual impact, function and acoustic considerations.*

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

- **Water Quality**

Concerns that water quality has not been adequately addressed and that the proposal may impact on the Solitary Islands Marine Park (SIMP).

- *Matters raised by the SIMP Authority have been addressed in the consent conditions (see Sediment and Erosion/Soil and Water Management conditions). The project will incorporate stormwater quality and management systems, including bio-retention areas and pollution traps to mitigate potential environmental impacts.*

- **Economic Impact**

Concerns that the project may impact on the Woolgoolga business centre, that it may not be a success, that the trade area of Coffs Harbour to Corindi Beach is unrealistic and that it is contrary to the Draft Moonee DCP.

- *No submissions were received by Council from businesses outside of Moonee. The economic impact statement indicates that there are not expected to be any significant adverse trading impacts at other shopping centres - having regard for the lower-order retail role provided at Woolgoolga, and the strong market growth in the wider trade area served by major facilities at Park Beach Plaza and the Coffs Harbour City Centre.*

The proposal accords with the business strategy of the adopted Moonee DCP.

- **Liquor Outlet**

Solicitors representing the Moonee Tavern proprietors have objected to the liquor outlet in this development on the basis of over-servicing the locality, propensity for more under-age drinking and anti-social behaviour from alcohol consumption.

- *These issues do not justify refusal of the proposed retail liquor outlet. The NSW Police has reviewed the application and has not sought to remove the liquor outlet from the development. Town centre shopping complexes normally contain a liquor outlet, as in this instance.*

- **Environmental**

Concern that the surrounding habitat is not acknowledged, that site illumination will impact on native wildlife of the locality, that the site is a habitat for the Eastern Grey Kangaroo, that the proposal will place a high negative effect on the unique estuarine ecosystem.

- *The application is accompanied by a flora and fauna report. The site is not mapped under Council's City-wide Koala Plan of Management or the Draft Vegetation Strategy. The development will not have a deleterious effect on flora and fauna, although some native vegetation present on the site will be removed as a result of the development. The proposal will incorporate controls to protect the nearby estuarine system.*

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

- **Process**

Concern that the application will be determined ahead of the Moonee DCP adoption, that the proposal is contrary to various statutory controls, that the proposal requires an Environmental Impact Statement (EIS) and consent from the Minister and that key performance indicators are required for non-residential development areas.

- *Council is the consent authority for the development application. The application has been processed in the normal manner, and in accordance with relevant statutory controls.*

Related Policy and / or Precedents:

Not applicable.

Statutory Requirements:

- **Section 79C Evaluation**

Section 79C of the Environmental Planning and Assessment Act 1979 specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined.

The Section 79C evaluation is appended to this report (Appendix A) and provides a detailed assessment of the application.

- **Relevant Statutory Instruments**

- North Coast Regional Environmental Plan (REP)
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- State Environmental Planning Policy (SEPP) No 11 - Traffic Generating Development
- SEPP No 64 - Advertising and Signage
- SEPP No 71 - Coastal Protection
- Moonee DCP
- Business Lands DCP
- Off Street and Car Parking DCP
- Access and Mobility DCP
- Signs DCP
- Notification DCP

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

Issues:

- **Advertising Signage**

The current Moonee Business Centre is characterised by a plethora of adhoc site advertising when viewed from the Highway.

The initial application proposed a new 18.5m tall pylon sign on the Highway frontage and another 18.5m tall pylon sign off the new collector road.

The owner of the tavern site has since agreed to signage rationalisation on this property to one new 6m pylon sign adjacent to the Highway frontage and retention of four existing pylon off Moonee Beach Road. This is considered acceptable advertising for this site.

The current shopping centre proposal now seeks approval to a 6m pylon sign off the new collector road and a 10m pylon sign adjacent to the Highway frontage. This will mean a new 6m pylon sign (for the tavern) and a new 10m pylon sign (for the shopping centre) on the Highway frontage.

The Regional Advisory Committee Traffic has recommended that advertising be restricted to a single structure. State Environmental Planning Policy No 64 - Advertising and Signage specifies particular requirements for large and tall signs (over 8m high with a display area greater than 20m²), and additional concurrence requirements for advertisements with a display area exceeding 20m² that are positioned adjacent to the Highway.

Consequently it is recommended that Council supports only the 6m high new collector road pylon sign under this consent and seek separate application with supporting justification for the tavern site and shopping centre site Highway pylon signage.

At the same time Council should limit freestanding signage adjacent to the Pacific Highway to a maximum of two new pylon signs, with a requirement to remove existing signage structures on the site prior to occupation of the new centre.

Proposed building signage is acceptable.

- **Carparking**

The initial application proposed 438 spaces. Of this total, 63 spaces were nominated on the tavern site, with agreement from the owner of the site to lease these spaces to the shopping centre.

The application has been amended to propose 376 spaces on the shopping centre site. As part of the development the tavern site will be upgraded to accommodate 145 constructed car parking spaces, in line with the 1988 consent for this property.

Of the 376 spaces, 276 will be at the level of entry to the centre; 33 spaces for staff parking will be located in the loading dock area; 67 spaces will be located off the new collector road adjacent to the collector road bulky goods store with 27 of these spaces allocated for staff parking.

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

The 376 spaces have been justified in a parking analysis from TTM Traffic Engineering. Council's City Services Section has concurred with the proposed parking arrangement.

The total development (the tavern site and the shopping centre) will comprise 521 car spaces.

- **Density**

The proposal has a Floor Space Ratio of 0.52:1.

The site is currently zoned Business 3F Neighbourhood and a maximum Floor Space Ratio of 0.5:1 applies to development in this zone. However, Council at its meeting of 16 September 2004 in its consideration of the report on the Moonee DCP resolved to rezone this site to Business 3C Town Centre. A Floor Space Ratio of 1:1 applies to development in the Business 3C Town Centre Zone.

Consequently no objection is raised to the proposed density of the development

- **Town Centre Shopping Centre**

A number of submissions raise the concern that the proposal is of a scale that is unsympathetic to the village setting and village lifestyle of Moonee Beach.

Council's recent adoption of the Moonee DCP reinforces that the Moonee locality will change its character from a village to a town. This application is representative of that change.

- **The New Collector Road**

The new collector road for this development will be constructed on Lot 3 DP 536819. This land is in Council's ownership. Council has provided owner's consent to lodgment of the application.

The location of the collector road accords with the Moonee DCP.

The developer and Council's City Business Unit is negotiating cost sharing arrangement for construction of this road. This arrangement is being negotiated independent of the development application process.

- **Developer Contributions Plan - Pacific Highway/Moonee Beach Road Intersection**

As part of the application process considerable work has been undertaken to negotiate a suitable intersection treatment at the Pacific Highway and Moonee Beach Road.

The Roads and Traffic Authority has effectively signed off on this intersection upgrade, subject to detailed survey and design being prepared for their (and Council) approval prior to works commencing.

The proposed works are interim works, designed to suit a five-year growth period for the Moonee residential precinct. The final intersection treatment is for a grade separated interchange, as recently confirmed by the RTA.

cont'd

Ped41 Development Application 1708/04 - Shopping Centre - Lots 1 And 2 Dp 1063045, Lot 30 Dp800261 And Lot 3 Dp 536819, Moonee Beach Road, Moonee Beach (cont'd)

The developer has requested that this infrastructure be covered by a developer contributions plan on the grounds that these works cover more than the subject development and further, that the cost of the works are considered excessive for a sole development. The extent and cost of these intersection works may in fact delay future development in the Moonee Release Area.

Representations made by the developer are considered reasonable in the circumstances and it is appropriate that staff explore the opportunity for the creation of a Section 94 Contributions Plan for this interim intersection upgrade. The cost of the actual works should be borne by the developer (i.e. the developer is to forward fund the works and be reimbursed as contributions are recovered from other development in the catchment). The report recommendation has been worded accordingly.

Implementation Date / Priority:

The development consent has a life of five years from date of issue. The consent may or may not be acted upon. The consent may be acted upon immediately following issue date or delayed until closer to the expiry date of the consent. This is a market decision for the developer to determine.

Recommendation:

- 1. That Development Application 1708/04 for a shopping centre on Lots 1 and 2 DP 1063045, Lot 30 DP 80026 and Lot 3 DP 536819, Moonee Beach Road, Moonee Beach be approved subject to Conditions as appended to this report (Appendix B).**
- 2. That Council staff investigate the preparation of a Developer Contributions Plan for the Pacific Highway/Moonee Beach Road intersection upgrading works, with a further report on this Plan being submitted to Council for consideration.**
- 3. That persons who made submissions on the application be advised of Council's determination.**

Attachments:

APPENDIX A

**Section 79C Evaluation
Development Application 1708/04**

a. the provisions of,

i. any environmental planning instrument, and

• North Coast Regional Environmental Plan

- The proposed shopping centre development is consistent with the principles of this Plan. The development will serve the needs of the existing and future population of the Moonee urban area.

• State Environmental Planning Policy (SEPP) No 11 - Traffic Generating Development

- The application has been considered by the Northern Region Regional Advisory Committee of the Roads and Traffic Authority (RTA). The Committee has issued conditional support to the application. Relevant conditions have been included in the Consent.

• State Environmental Planning Policy (SEPP) No 64 - Advertising and Signage

- This SEPP contains assessment and concurrence criteria for advertising signage. Proposed signage has been modified during the application process, however, advertising signage proposed adjacent to the Highway has not received support from the RTA whilst a commitment has been received for signage rationalisation on this nodal site. Highway signage as proposed is not considered suitable for approval. Consequently the consent has been conditioned to restrict on title proposed Highway signage and to seek separate application for same.

• State Environmental Planning Policy (SEPP) No 71 - Coastal Development

- The site is located in the Coastal Zone. The proposal is consistent with the objectives and matters for consideration in this SEPP. The proposal will not impact on coastal processes or hazards. Limited vegetation clearance will occur on the site. Matters raised by the Solitary Islands Marine Park Authority concerning storm water quality management are addressed in consent conditions. A stormwater mitigation report accompanies the application, and a comprehensive environmental stormwater management system is proposed for the development.

• Moonee Development Control Plan (DCP)

- The proposal is consistent with the development controls called up under this Plan, including the economic, social and environmental sustainability strategy for the urban development area. Principal access to the site is via the new collector road. This new road will link a future southern urban area. The development provides an acceptable interface with the collector road (the centre has a concealed loading area) and the mixed-use business zone to the rear via setback, building treatment and landscaping.

- **Business Lands DCP**

- The proposal accords with the development controls under this Plan other than density. The current zone of the property is Business 3F Neighbourhood and the floor space ratio maximum for this zone is 0.5:1. However, Council at its meeting of 16 September 2004 resolved to rezone this site to Business 3C Town Centre. This zone allows a maximum floor space ratio of 1:1. The proposed density is 0.52:1, which is considered acceptable for the proposal in terms of building scale and footprint and the capability of the development to service the expanding trade area.

- **Off-Street Carparking DCP**

- The application proposes 3,730m² of bulky goods sales room and 7,455m² of shops.

This DCP sets a rate of one car space per 23 m² for shops and that a parking study is required for bulky goods salesrooms. Council has previously accepted a rate of 1:50m² for bulky goods salesrooms for the City. On this basis 399 spaces are required for the development.

The proposal is for 276 at grade spaces, 67 spaces off the collector road and 33 in the loading dock, total 376. This number of spaces has been justified in a parking analysis by TTM Traffic Engineering and agreed to by Council's City Services section.

The application involves reconstruction of the access via the adjacent tavern site (Lot 1) and a consent condition requires the establishment of 145 constructed car spaces on this site prior to occupation of the shopping centre.

Adequate carparking, loading and public transport facilities are provided for the development.

- **Access and Mobility DCP**

- The application has been reviewed by the Access Advisory Committee. Recommendations of this Committee have been referred to the applicant who has in turn amended the plans where relevant, to meet the Committee's concerns and statutory requirements.

- **Signs DCP**

- Proposed signage on the buildings and the pylon sign off the collector road satisfy the provisions of this DCP. Signage rationalisation on Lots 1 and 2 DP 1063045 is proposed and reinforced via the consent conditions. Further application is required from the developer for proposed Highway pylon signage (see notes on SEPP No 64).

- **Notification DCP**

- The development application was advertised and notified in accordance with this Plan. The notification period was extended and a copy of the application placed at the Moonee General Store to assist the consultation phase for this substantial development. The plans were amended, however the amendments differ in only minor respects from the original application (see report description). On this basis the amended proposal was not further notified or advertised. Matters raised by the objectors are summarised and addressed in the Council report and consent conditions.

- **Coffs Harbour City Local Environmental Plan (LEP) 2000**

- The site is zoned 3F Business Neighbourhood and 7B Environmental Protection - Scenic Buffer.

The development proposal is permissible within the 3F Zone subject to consent. Proposed works in the 7B Zone are permissible with consent.

The site is not mapped under the Coffs Harbour City Koala Plan of Management (Clause 12).

The development proposes the benching of the site. Landform modification works are subject to environmental controls (Clause 13).

The development will be provided with adequate reticulated services - water, sewer, stormwater, power and telecommunications (Clause 14).

The site is identified as Class 3 and 5 potential acid sulfate soils. The proposed landform modification works (cut to fill) and servicing is unlikely to expose acid sulfate soils (Clause 23).

The development proposal is not flood impacted (Clause 23).

- ii. **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

- The Council on 19 September 2004 resolved to rezone this site to 3C Business Town Centre. The proposal satisfies the aims, objectives and permissible uses of this zone.

- iii. **any Development Control Plan (DCP)**

- See comments earlier in this report.

- iv. **the regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

- Clause 92 of the Environmental Planning and Assessment Regulations 2000 calls up the NSW Coastal Policy 1997. Objective 3.2 of this Policy is *"to design and locate development to complement the surrounding environment and to recognise good aesthetic qualities"*. The proposal satisfies this objective.

b. the likely impacts of that development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality,

- The proposal will have positive impacts on the built environment in the locality by reason of its design, site placement, bulk, height, scale, accessibility, servicing, and function. The locality's natural environment will not be significantly affected by the development, the development will comprise pollution controls during construction and operational phases, will incorporate water quality and water harvesting facilities and will not have a deleterious effect on flora and fauna. Social and economic effects will be positive, the proposal incorporating safety, security and crime prevention, equitable access and provides an important community meeting place. The development will be an economic and employment generator, supporting up to 215 jobs at the operational phase.

c. the suitability of the site for the development,

- The site is within the Moonee Release Area business centre, highlighted in the recently adopted Moonee DCP. Its site positioning does not dominate existing/future urban development; it interrelates and integrates with the existing small shops/tavern site by commonality of access, pedestrian movement and public transport servicing. The form and scale is not inconsistent with the desired future character of the Moonee Release Area.

Potential off site impacts are mitigated via the building design and consent conditions that limit construction and operation times and light spillage. Proposed advertising signage restrictions also mitigate off site impacts. The site's access arrangements via the Highway/roundabout and collector road are adequate for the development.

d. any submissions made in accordance with this Act or the regulations,

- Following advertising and notification of the application in accordance with Council's Notification DCP, 18 submissions were received; one from the Moonee Action Group, one representing the Moonee Tavern proprietor, and 16 local residents. These submissions have been comprehensively discussed in the Council report. A number of concerns raised by the objectors have been satisfied via consent conditions or amendments to the proposal since lodgment of the application.

State agency matters have been satisfied and where relevant incorporated into the consent conditions. The relevant agencies are the RTA, DIPNR, NSW Police, Regional Advisory Committee, Traffic. The application was also considered by the Access Advisory Committee.

e. the public interest,

- The public interest would be well served by the development. It accords with the provisions of the Moonee DCP and other relevant planning controls. The proposal will have positive economic, social and environmental outcomes and is likely to be a catalyst for the release area.

**Development Application No 1708/04
Schedule of Conditions**

STAGED DEVELOPMENT:

- This development consent recognises that the development will be staged, generally in accordance with the following:
 - Stage 1 - landform modification
 - Stage 2 - construction of the building, roads, car parking, landscaping and services

Access & Services:

1. The following works and services being provided to serve the development with the works conforming with the standards and requirements set out in Council's Technical Guidelines for Subdivision and Development:
 - water
 - sewer
 - roadworks
 - stormwater
 - footpath

These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

- Note 1: The collector road including street lighting and landscaping being constructed to full width from the roundabout to the access to the shopping centre, and one half road width plus one metre to the southern boundary of the development site.
- Note 2: Concrete roundabout, including street lighting, line marking and landscaping being constructed at the Moonee Beach Road/new collector road intersection.
- Note 3: A 1.5m wide concrete footpath being constructed along the western side of the new collector road, from the roundabout to the southern boundary of the site.
- Note 4: Moonee Beach Road being provided with an interim access arrangement to the site comprising a dedicated right-turn lane, with storage for 3 cars, the design to allow for the final construction of a central median. The design is to incorporate kerb and guttering and street lighting to Council's requirements.
- Note 5: The development incorporating an on-site stormwater detention system to limit discharge to pre-development levels to the 1:100 ARI or alternatively the culvert under Moonee Beach Road being upgraded to the 1:100 ARI capacity for a fully developed catchment.

No engineering works are to be undertaken until plans and specifications have been approved by Council.

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All work is to be at the developer's cost.

Plans and specifications submitted later than six (6) months from the date of development approval shall comply with the Technical Guidelines for Subdivision and Development current at a date six (6) months prior to such submission.

2. All roads, water and sewerage mains being fully constructed to the boundary of the adjoining land, being *Lot 210, DP 1044292*, in accordance with Council's Technical Guidelines for Subdivision and Development. These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

Easement for Lot 1, DP 1063045:

3. The **Construction Certificate not being issued** for the shopping centre until an easement for vehicular access, bus stop and pedestrian access has been obtained over Lot 1, DP 1063045 (the tavern and shops site) in favour of the shopping centre site (Lot 2, DP 1063045).

Car Parking – Lot 1, DP 1063045:

4. Submission of a carparking plan for Lot 1, DP 1063045 (the tavern and shops site) with the Construction Certificate application that provides for the construction of 145 car spaces on this site, to include 22 spaces on the western side of the right-of-way ramp.

The car spaces and vehicular manoeuvring areas being constructed in accordance with Council's Off-Street Carparking Development Control Plan and Australian Standard AS 2890.1-1993.

These spaces are to be constructed prior to the issue of an **Occupation Certificate** for the shopping centre on Lot 2, DP 1063045.

Carparking Area:

5. The development providing a total of 376 spaces on the site (Lot 2, DP 1063045).

All carparking and vehicular manoeuvring areas being constructed in accordance with Council's Off-Street Carparking Development Control Plan and Australian Standard AS 2890.1-1993. Carparking areas are to be maintained in a serviceable condition at all times.

6. A drop-off and pick-up zone of 2 x car spaces being provided adjacent to the main shopping centre entry with details of location and design being approved by Council **prior to the issue of the Construction Certificate**.
7. All marked pedestrian crossings being designed in accordance with the relevant Australian Standard with the design being approved by Council **prior to the issue of the Construction Certificate**.

8. The internal road system is to incorporate traffic calming provisions to control vehicle speeds, to be designed in accordance with the relevant Australian Standard and approved by Council **prior to the issue of the Construction Certificate.**
9. The installation of a bicycle rack adjacent to the entry to the shopping centre.

Pedestrian Movement Barrier:

10. To discourage parking on the Highway and pedestrian access to the site from the Highway a pedestrian barrier fence is to be constructed along the western edge of the new carpark. Barrier fencing is to be 1.2m high black cyclone fencing or a similar treatment with details being submitted to Council for approval **prior to the issue of the Construction Certificate.**

Easements:

11. An easement being created over the trunk stormwater drainage system in Council's favour that assigns the maintenance responsibility and costs to the respective property owners. The easement is to be in favour of Council and is to be created on the relevant titles prior to issue of the **Occupation Certificate.**

Easements for Access:

12. Easements on title for access that serve the proposed development are to be amended as necessary to the effect that Coffs Harbour City Council approval is required to alter or extinguish the easement(s), with evidence of this inclusion on title being provided to Council **prior to the issue of the Construction Certificate.**

Dedication:

13. Any necessary road widening on the corner of Moonee Beach Road and the new collector road (Lot 30, DP 800261) being dedicated to Council free of charge as public road.

Water Harvesting – Irrigation of Landscape Areas:

14. **Prior to the issue of the Construction Certificate** a water management plan is to be submitted to Council for approval detailing measures to harvest stormwater for use in irrigation of landscape areas. The approved works are to be implemented in the development.

Sediment & Erosion Control – Construction Phase:

15. The submission to Council for approval prior to the commencement of any works in connection with this development of a sediment and erosion control plan.

The plan is to include details of soil types and the design of sediment and erosion control measures capable of controlling and treating run-off from the site, taking into consideration the soil types. The plan is also to detail proposed maintenance schedules.

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The approved controls are to be implemented and maintained throughout the construction phase and any maintenance period.

Soil & Water Management Plan – Operation Phase:

16. The submission to Council for approval **prior to the issue of the Construction Certificate** of a soil and water management plan that addresses the management of pollutants from the shopping centre development, litter, sediment, oil and grease. This plan is to detail a proposed maintenance schedule to include responsibilities for maintenance works.

Water & Sewerage Services:

17. The **Construction Certificate not being released** until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

The current contribution rate is:

Works to satisfy increased demand within the area for 3730m² of bulky goods salesroom development		Amount/m²	Total
		\$	\$
Water	Headworks	8.45	31,518.50
	Reticulation	3.21	11,973.30
Sewer	Headworks	2.78	10,369.40
	Reticulation	5.17	19,284.10
Sub-Total			73,145.30

Works to satisfy increased demand within the area for 7,455m² shops		Amount/m²	Total
		\$	\$
Water	Headworks	12.67	94,454.85
	Reticulation	4.81	35,858.55
Sewer	Headworks	4.18	31,161.90
	Reticulation	7.76	57,850.80
Sub-Total			219,326.10
Less credit for 1 lot			9,807.35
Total Amount Payable			282,664.05

Delivery Vehicles:

18. No 25 metre B-double vehicles are to service the development.

Noise Control:

19. Compliance with the following noise controls in the construction and operation of the shopping centre:

- Mechanical plant and equipment, and alarms, PA systems shall satisfy the recommended noise goals of the Atkins Acoustics Report April 2004 (table 4).
- Signs being erected directing that delivery vehicles switch their engines off during unloading/waiting.
- Line the main loading dock walls above 2m above floor level with 50mm glasswool insulation (14kg/m^3) faced with perforated aluminium foil, perforated metal or equivalent (min. 45% open area).
- Ventilation openings within the southern wall of the main loading dock being deleted or acoustically treated to provide a noise reduction of not less than 20dB(A).
- Cover all loading dock floors with "Regupol" matting or similar steel faced lining plate.
- Speed hump profiles being designed and constructed to minimise noise impact.
- Acoustic isolation and mechanical fixing of expansion joints and stormwater grates.

Submission of a report from the acoustic consultant prior to issue of the **Occupation Certificate** to the effect that the development satisfies the relevant provisions of the Protection of the Environment Operations Act 1997 and the above requirements.

Pacific Highway and Moonee Beach Road and Hoys Road Intersections:

20. Prior to occupation of the development the Pacific Highway and Moonee Beach Road and Hoys Road intersections are to be upgraded generally in accordance with Drawing No. 30402-12A prepared by TTM Consulting Pty Ltd, subject to the following conditions:

- a) All road works to be at the developer's cost.
- b) Existing junction of the Pacific Highway and Moonee Beach Road is to be upgraded to a seagull treatment with raised medians. It is to provide adequate northbound right-turn storage into Moonee Beach Road.
- c) The Pacific Highway and its junctions with Hoys Road are designed to 90km/h AUSTROADS standards.

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- d) The southbound left-turn deceleration lane on the highway and acceleration lane out of Moonee Beach Road are both to be designed and constructed to a 100km/h standard.
- e) The seagull and the Moonee Beach Road junction are to have street lighting installed in accordance with Country Energy standards.
- f) The new middle junction of Hoys Road is to provide at least 250m of Safe Intersection Sight Distances for both approaches of the highway. It is to provide the equivalent right-turn storage capacity for southbound highway traffic that currently exists at the southern junction. Northbound traffic is to be prevented from turning left with an appropriate raised median treatment.
- g) Provision needs to be made for the private access on the eastern side of the highway.
- h) Existing southern junction of Hoys Road is to be modified to only allow northbound traffic to turn left in.
- i) Due to the increase in traffic that will use the existing northern Hoys Road junction the existing northbound left-turn deceleration taper is to be upgraded to AUSTRROADS standards and the right-turn out of Hoys Road banned.
- j) A guide and regulating signposting scheme for the Pacific Highway, Hoys Road and Moonee Beach Road's is to be designed and erected in accordance with current RTA standards. It is to be submitted to Coffs Harbour City Council's Traffic Committee for approval prior to installation.
- k) Improvements to the existing and new section of Hoys Road are to be designed and constructed to Coffs Harbour City Council's satisfaction and standards.

No works are to commence on these roads until design plans and specifications have been submitted to the Roads & Traffic Authority and to Coffs Harbour City Council for consideration and an approval issued.

Prior to the commencement of the works a Major Works Authority Deed is to be executed between the developer and the Roads & Traffic Authority.

Waste Storage Areas:

- 21. Waste storage areas that accommodate putrescible waste are to be graded and drained to the sewer (via basket wastes, to have a hose cock (for bin washing) bump rails (for bin and storeroom protection) and to be covered at wall/floor intersections (for ease of cleaning). These areas are to be ventilated to satisfy the relevant controls of the Building Code of Australia/Australian Standards.

Waste bins for non-putrescible waste are to be enclosed in appropriate storage compounds so as not to be visible from a public space.

Waste management is to be undertaken in accordance with the report of i2C Design & Management "Waste Management Plan for Specialty Shops and Bulky Goods Tenants and the Coles report of 13 April 2004".

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Outdoor Lighting:

22. Outdoor lighting shall comply with the relevant provisions of Australian Standard AS 4282-1997 (Control of the Obtrusive Effects of Outdoor Lighting).

Submission of a certificate from the lighting engineer/electrical consultant to the Principal Certifying Authority prior to issue of an **Occupation Certificate** to the effect that the outdoor lighting system satisfies the relevant provisions of this standard.

Trade Waste:

23. Discharge of trade waste to Council's sewer will not be permitted until formal approval for the discharge has been received from Council. Submission of concept trade waste treatment details to Council for approval **prior to release of the Construction Certificate.**

Fencing:

24. Fencing to the top of the retaining wall, eastern loading dock ramp and to the southern edge of the collector road bulky goods store driveway is to be a minimum 1.2 metres high, non scaleable and of black/recessive colours.

Hours of Operation:

25. The development not being operated outside of the following times:

Loading Dock - Monday – Saturday, 6.00am to 8.00pm.
Sunday/Public Holidays, 7.00am to 8.00pm.

Retail Uses - Monday – Sunday, 7.00am to 9.30pm.

Acid Sulfate Soils:

26. Testing of soil profiles is to be undertaken during the structural engineering design investigations (as part of the application for the Construction Certificate). Should acid sulfate soils be detected an acid sulfate soils management plan is to be developed and submitted to Council for approval **prior to release of the Construction Certificate.**

Food Premises Fitout:

27. All food premises tenancies are to satisfy the requirements of Australian Standard AS 4674-2004 (Design, Construction & Fitout of Food Premises).

All food premises are to be inspected by staff of Council's Environmental Services Section during fitout and prior to occupation.

No food premises is to commence trading until the operation has been registered by Council as a "food premises".

Dust Controls:

28. Effective measures shall be taken to suppress dust emissions during the course of development, with details of dust control being submitted **prior to issue of the Construction Certificate.**

Aboriginal Cultural Heritage:

29. In the event that Aboriginal artifacts or relics are located during site construction works all works must cease and the Department of Environment & Conservation (NPWS) notified forthwith.

Hours of Work:

30. Construction works are to be limited to the following hours:

Monday to Friday	7.00 a.m. - 6.00 p.m.
Saturday	7.00 a.m. - 1.00 p.m. if
inaudible from adjoining residential properties,	
otherwise	8.00 a.m. - 1.00 p.m.

No construction work is to take place on Sunday and Public Holidays.

Burning on site:

31. Open air burning of tree loppings, stumps, other vegetation or construction waste is prohibited.

Disability Access and Facilities

32. Access and facilities for disabled persons being provided in accordance with Council's Access and Mobility Development Control Plan, Building Code of Australia and Australian Standards. Detailed plans indicating compliance with relevant provisions, and certified by a suitably qualified access consultant are to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

The developer's attention is drawn to the provisions of the Disability Discrimination Act 1992.

Separate development applications for use & fitout of tenancies:

33. Separate development consent and construction certificates being obtained for fitout and use of retail and bulky goods tenancies proposed in the development.

Applications:

34. A separate application is to be made to Council by the licensed plumber and drainer **prior to the commencement of any sanitary plumbing and drainage work on site.**

Use:

35. The building not being occupied until the approval of the Principal Certifying Authority has been obtained beforehand.

Construction Certificate:

36. Submission of an application for Construction Certificate complying in all respects with the provisions of the Environmental Planning and Assessment Act, Local Government Act and the Building Code of Australia. Work on any building shall not commence until the Construction Certificate has issued and Council has been notified of the Principal Certifying Authority.

Signage - Construction:

37. A sign indicating the name, address and telephone number of the Principal Certifying Authority, and the name and telephone number of the principal contractor (if any) must be erected in a prominent position on the site and maintained until the building work has been completed. The sign must also state that unauthorised entry to the site is prohibited. The signage must be erected prior to commencement of work.

Landscaping Plan:

38. A detailed landscaping plan for all unbuilt-on areas of the site being submitted to and approved by Council **prior to the issue of the Construction Certificate.**

The plan must be prepared and certified by a qualified architect, landscape architect or professional landscape consultant. The plan is to comply with Council's Landscaping Guidelines, and is to incorporate measures to ensure the maintenance and survival of the landscaping. All landscaping is to be carried out in accordance with the plan and maintained in accordance with the plan at all times.

Prior to the occupation inspection, a works-as-executed plan is to be submitted to the Principal Certifying Authority certifying that all landscaping works have been carried out in accordance with the approved plan.

Safer By Design:

39. The development incorporating the following "*Safer By Design*" inclusions:
- Provision of security fencing/gates to deny unauthorised access to the passageway that connects the trolley store to the supermarket foyer.
 - Provision of security gates to the loading dock to deny unauthorised access to this area.
 - Provision of security gates to deny unauthorised access to that section of the carpark positioned behind the collector road bulky goods store.

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- The installation of a CCTV system to the development, to cover in particular the entrances to the shopping centre, the loading dock and the western pathway.
- The installation of appropriate lighting to the development, to include the above described locations.
- The provision of fencing to exclude unauthorised access to the southern landscaped side boundary setback area.
- The design of the development, particularly the western wall of the western specialty shops, the western wall of the supermarket and the western wall of the hotel carpark upgrade ramp being graffiti proofed (eg hedges and greenscreens on these external walls or the provision of some openings/shopfront to the western specialty shop position).
- Automatic teller machines/public telephones where installed in the development being located in areas of high visibility.
- Paved meeting areas being constructed of materials that exhibit skateboard use.

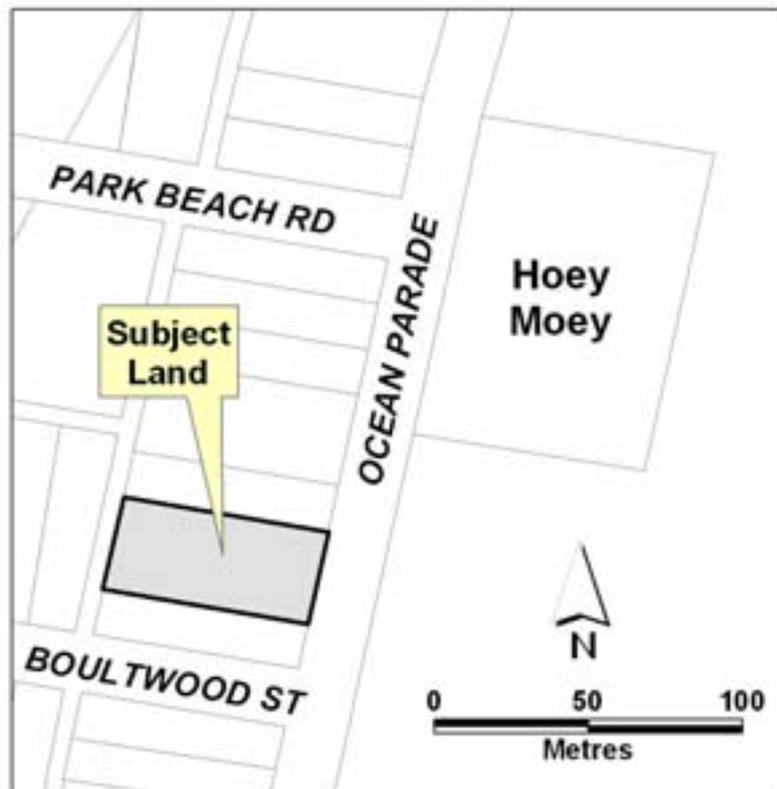
Freestanding Advertising Signage – Restrictions:

40. This consent approves the 6m high new collector road pylon sign only.
41. The title of Lot 1, DP 1063045 being encumbered by a restriction to limit free standing pylon signage adjacent to the Pacific Highway to a maximum of 2 x pylon signs only, with Council approval to alter or extinguish this restriction.
42. The title of Lot 2, DP 1063045 being encumbered by a restriction to prohibit free standing pylon signage adjacent to the Pacific Highway boundary (but not within the 7B Environmental Protection Scenic Buffer Zone) with Council approval to alter or extinguish this restriction.
43. Separate development consent being obtained from Council for pylon signage for the tavern and the shopping centre developments for the Pacific Highway frontage.
44. Existing pylon and billboard signage on the tavern site (Lot 1, DP 1063045) adjacent to the Highway being removed prior to occupation of the shopping centre development.

PED42 DEVELOPMENT APPLICATION 455/05 - FOUR STOREY (26 UNITS) RESIDENTIAL DEVELOPMENT - LOT 2, DP 857663, 71-73 OCEAN PARADE, PARK BEACH

Purpose:

The application proposes a four storey, (26 unit) development for residential accommodation with basement car parking and lap pool. The report recommends approval of the development subject to conditions.



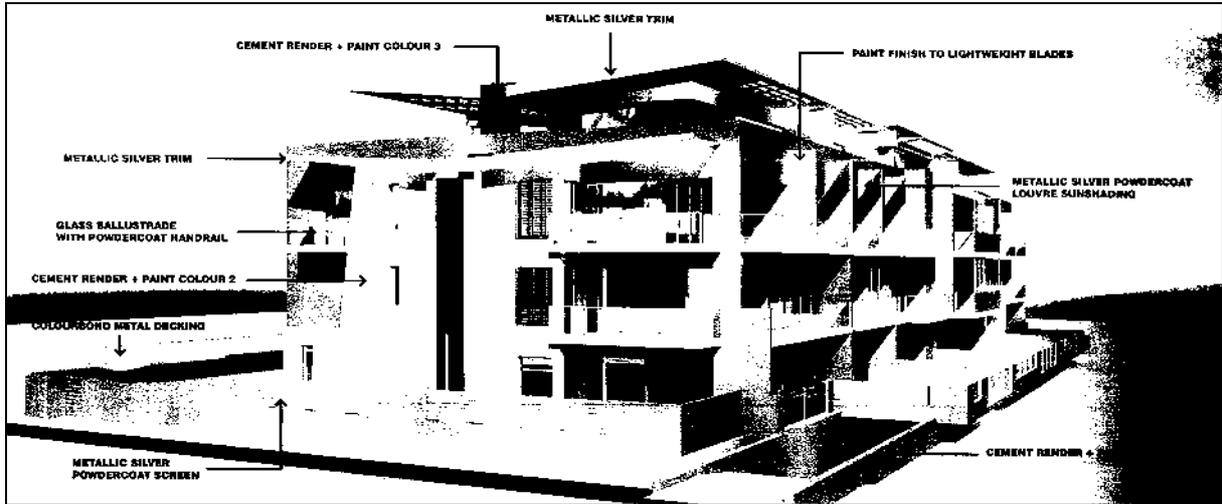
Description of Item:

71-73 Ocean Parade Park Beach is currently occupied by a motel known as “Ocean Park Motel” and is of single and double storey scale. The site has a 30.48m frontage to Ocean Parade and the rear laneway, and a depth of 67.13m, with a total site area of 2046.12m².

It is proposed to demolish the existing motel buildings and construct a basement carpark for 37 cars, with an entry into the carpark from Ocean Parade and exit onto the rear laneway. A four storey residential development is proposed to be constructed above the basement carpark, with a rear lap pool and spa to be located at the rear of the site. The proposal comprises seven ground floor courtyard style apartments that also include five units that meet the standards for adaptable housing. The mid level floors feature two level dual aspect apartments (ie views to the north and south) as well as single level apartments. The uppermost floor contains three penthouse-style apartments with large landscaped terraces. The estimated cost is \$4.2 million.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)



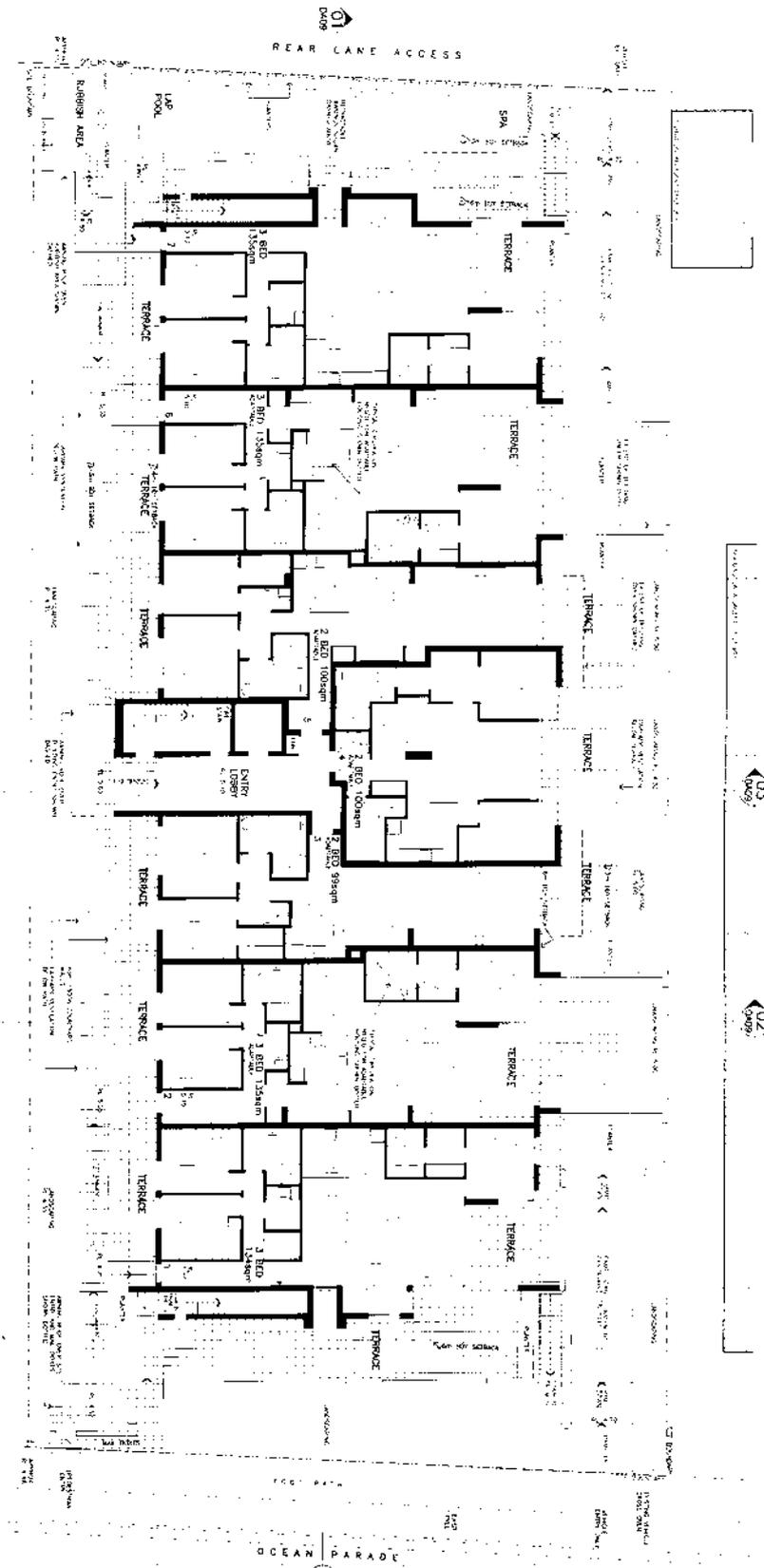
Proposed building



Proposed building within existing streetscape

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)



Ground level floor plan

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Sustainability Assessment:

- **Environment**

The proposal will have a positive impact on the environment. All car parking will now take place at basement level, removing it from ground level parking. An acid sulfate soils management plan and geotechnical report shows that the development is suitable for the site, and with good management of the site, no negative impact is likely. There will be no habitat disturbance nor would there be any impact on Aboriginal or European heritage. Some landscaping would have to be removed from the rear laneway to allow for the vehicular access from the basement carpark, but this landscaping is not of environmental significance.

Use of cars will be reduced with many residents choosing to walk to nearby parks, beaches, restaurants, shops and waterways – thereby reducing potential pollution levels.

Finally, the proposal has received an Energy Efficiency rating of 3.5 – 4.0 stars for the 26 units due to their construction and environmental features which will help capture the sea breezes and provide for outdoor living areas with most facing north, east or west.

- **Social**

The proposal will create a development that will provide new, attractive accommodation for those wanting to live at Park Beach. The proposal will provide for units of differing sizes which will cater for a mixture of differing household groups wanting to live closer to Park Beach coastal and recreation areas. Several of the ground floor units will be able to be 'adapted' for those in need of accessible accommodation, which is considered to be good future planning.

The high demand for living in the Park Beach area (for a 'change of lifestyle') will be partially met by this proposed development, with the 26 units of varying sizes and outlooks. Access to the building will be provided via a ramp to the pedestrian entrance and an internal lift to each floor of the building.

- **Economic**

Broader Economic Implications

The proposal will provide a new, well-designed unit development that will improve the outlook for adjacent properties and set the benchmark for new developments in accordance with the Development Control Plan (DCP) for Park Beach. The economic viability of the existing motel on the site is no longer sustainable, hence the proposal to redevelop the site. The development will likely provide employment for a whole range of sectors within the building industry during construction. Once completed, the development will also require on-going maintenance (ie landscaping, on-site management) and servicing which will involve local businesses.

Management Plan Implications

There is no impact on Council's Management Plan.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Consultation:

The proposal has been advertised and notified to the neighbourhood and community. A number of objections/submissions were received, predominantly from the owners and/or occupiers of Sassafras Holiday Village to the rear (10 in all). One submission was received from another adjacent neighbour supporting the proposal subject to construction of the laneway to Council standards.

The objections can be summarised as follows:

- Sassafras Holiday Village has improved the laneway to the east of their development by landscaping it and it is currently well used by pedestrians. This development would destroy the laneway and the outlook for the pool area of Sassafras Holiday Village.
- Access to the carpark should be by way of Ocean Parade only and not the rear laneway.
- Or alternatively, the development be "mirror-reversed" to provide the vehicular access to take place on the southern side of the site rather than the northern side, onto the laneway.
- Their pool is inappropriately located to get the winter sunshine and is purely tokenism.
- Overlooking into Sassafras Holiday Village from the upper floor units would be possible.
- The development would in effect be 4.5 stories because the floor has to be raised due to flood levels and exceeds the 12m as stipulated by Council's DCP for this area.
- Side setbacks are less than the 6m required by the DCP.
- Concern regarding acid sulfate soils and whether basement car parking is feasible.
- Out of character with the area – most buildings are only two stories high.
- Loss of early sun into the Sassafras Holiday Village pool and units.
- Loss of privacy to users of the pool area.
- Cars exiting the carpark to the west would cause problems with their car headlights shining into the units of the Sassafras Holiday Village development.
- Garbage collection would be a nuisance and noisy to Sassafras Holiday Village residents and should be located on Ocean Parade frontage.
- Too large for the site and the area and out of scale with the densities in the area.
- Inadequate landscaping is provided on site.
- No provision on site for an on site manager to manage tourists if these units indeed attract tourists, which it is anticipated that they will.
- Increased levels of pollution for nearby residents, particularly at Sassafras Holiday Village.
- Loss of tourist accommodation for the sake of residential development and should be discouraged.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Comments on Submissions

Laneway – The primary concerns of the objectors to the rear is that of the laneway that would be used for vehicular access, thereby affecting the outlook from the pool and recreation area of the units at Sassafras Holiday Village. The attractively landscaped area at the rear has been in place for 20 years and its removal and replacement with a roadway will have an impact on the pool area. However it is a public roadway that has, until now, not been required for vehicular access. But with redevelopment occurring in the area, it is now required to be used and should be encouraged to help remove congestion from Ocean Parade. Council's DCPs specifically encourage the use of rear laneways.

Overlooking – concern regarding overlooking towards the west has been mentioned in several of the submissions. Overlooking has been minimised by the 6m setback from the rear boundary, and planters located at the top floor to prevent overlooking and minimal windows or balconies at the first or second levels (which would face west) to discourage use or views this way.

Height – concern regarding height has also been expressed. However this development does comply with the four storey height limit of the DCP and the 12m height to the eaves has been complied with.

Setbacks – again compliance has occurred with the front and rear setbacks, with lower floor side setbacks only marginally intruding into the 6m setbacks and having no impact on the northern and southern neighbours' amenities' windows. Neither of these neighbouring developments have objected to the development.

Acid Sulfate Soils (ASS) – the Management Plan for ASS has indicated that the proposal is feasible as long as management occurs within the Plan prepared. Council's Environmental Officers will oversee the Management Plan.

Character of the Area – The proposal will comply with the character objectives of Council's DCP as well as overall height, bulk and shape. The project will contribute to the rejuvenation of the area – it is an area in transition.

Overshadowing of the Sassafras Holiday Village pool area – the proposal meets the height and setback requirements for the western boundary. Overshadowing of the pool between 9am and 3pm on the 22 June will not be likely and therefore all other times of the year ample sunlight will be received by the recreation area. The width of the laneway helps protect the pool from shadowing, but the existing landscaping on the laneway does cast a shadow over the pool. Once this is removed more sunlight will reach the pool area of Sassafras Holiday Village.

Loss of privacy to Sassafras Holiday Village pool users – the pool is currently overlooked by other residents of Sassafras Holiday Village and any pedestrians using the laneway, with no privacy fencing to prevent this loss of privacy. A solid fence on the eastern laneway boundary will provide more privacy to the pool users, whilst overlooking from the new units has been addressed above.

Car headlights – nuisance from car headlights leaving the basement carpark would be reduced by having a solid fence on the Sassafras Holiday Village laneway boundary.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Garbage collection – Council prefers to have all waste collection from the rear laneway, where feasible, whilst storage of waste bins away from the front pedestrian entrance is also preferable and has been designed accordingly. The bin area is a well-designed area that can be washed out and managed in a non-obtrusive manner.

Landscaping – the proposed landscaping meets the requirements of Council's Parks and Recreation Branch and has been approved in principle.

Use of development – should be encouraged to be tourist accommodation in preference to permanent residential, however the owner of the land has determined that the viability of the development depends on the use being residential and not tourist accommodation. Council's DCP allows both uses but allows higher densities for tourist accommodation than permanent residential.

Government departments consulted include

- The Rural Fire Service – has no objection subject to the marking of fire hydrants in the area and level 1 construction of the units.
- Department of Lands, as a neighbour, have no objection to the proposal.

Other Council Departments' comments

City Services

No objection to the proposal subject to:

- the construction of the laneway will need to be carried out at the applicant's expense and will include full width lane construction including kerb and gutter both sides including construction of the drainage inlet at Boulwood Street.
- the sewer will need to be moved clear of the pool area to the laneway.

Environmental Services

No objection. All demolition work is to comply with the appropriate Australian Standards. The management of potential acid sulfate soils is to occur in accordance with the ASS Management Plan. Sediment and erosion control measures to be put in place prior to any construction works. Pool and spa pump hours to be regulated to avoid noise nuisance. Construction hours are to be limited as per Council's regulations.

There is no objection to the location, size and construction of the garbage storage area.

City Parks and Reserves

The proposed landscape plans have been approved, with the deep soil zones and suitable trees in front and side setback to soften the impact of the development. Planting and species of landscaping are approved.

Building and Development

No issues with the compliance with the BCA are anticipated.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Statutory Requirements:

• **Section 79C Evaluation**

Section 79C of the Environmental Planning and Assessment Act 1979 specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined.

The Section 79C evaluation is appended to this report (Appendix A) and provides a detailed assessment of the application.

The following relevant Statutory Instruments are also covered within the 79C evaluation:

- North Coffs Regional Environmental Plan (REP)
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- Tourist Lands Development Control Plan (DCP)
- Park Beach Development Control Plan (DCP)
- State Environmental Planning Policy (SEPP) No. 65 – Residential Flat Design

Issues:

• **Rear Laneway**

The main concern raised by objectors is the rear laneway, which is at present well landscaped and maintained by Sassafras Holiday Village and used as an attractive backdrop for the pool and recreation area of Sassafras Holiday Village in Boulwood Street. This has been like this for 20 years. The pool area has an open metal pool fence, looking onto this landscaped rear laneway, providing an attractive outlook for the residents of the Sassafras Holiday Village.

The rear laneway is owned by Council and its function is to provide vehicular access to the rear of properties. The proposed development intends to make use of this laneway for the vehicular egress from the basement carpark, with all cars entering the basement carpark from Ocean Parade and leaving the carpark via the laneway. Waste storage and collection will also be via this laneway. The rear laneway will have to be constructed, including kerb and gutter on both sides, from Boulwood Street to the northern side of the subject site, at the applicant's expense. Council's Engineering Branch supports this proposal. The proposed arrangement reflects the appropriate use of a rear laneway.

• **Compliance with the Park Beach DCP**

Satisfactory compliance with the Park Beach DCP has occurred. Concern has been expressed by many of the objectors that the proposal does not comply with the DCP, but as can be seen earlier in the report, this is not the case. The development does comply with the DCP with a couple of minor variations that have minimal impact on adjacent properties.

cont'd

Ped42 Development Application 455/05 - Four Storey (26 Units) Residential Development - Lot 2, Dp 857663, 71-73 Ocean Parade, Park Beach (cont'd)

Summary

The application for a four storey, 26 unit development at Park Beach is in keeping with the Park Beach DCP for this area, meets the requirements of SEPP 65 in terms of design, and has the support of all branches of Council and the Rural Fire Service.

With all car parking in the basement and the street appearance being well landscaped, with an architecturally interesting and appealing building, the proposal should complement the area.

The proposal complies with the Park Beach DCP and SEPP 65. Neither the northern or southern neighbours have objected to the proposal, with all submissions (except one) coming from the Sassafras Holiday Village to the west of the development.

It is recommended that the development be approved, subject to conditions.

Recommendation:

- 1. That Development Application 455/05 for a 26-unit development (four stories with a basement carpark) be approved, subject to technical conditions (see Attachment B).**
- 2. That all those who made submissions on this Development Application be notified of Council's decision.**

Attachment A:

**SECTION 79C EVALUATION
DEVELOPMENT APPLICATION NO. 455/05**

A. the provisions of:

i. any environmental planning instrument, and

- North Coast REP

This plan has complied with in terms of height and impact on the amenity of the area.

- North Coast Design Guidelines

Suggested lighter, smaller elements in the design with hoods, eaves, verandahs and so on. This proposal complies with these guidelines in that there is variety in the design of the development.

- NSW Coastal Policy

Relevant goals have been complied with.

- SEPP 65 (Design Quality of Residential Flat Development)

The principles of this SEPP have been complied with in terms of amenity, aesthetics, safety and security, providing a mix of housing sizes and styles, built form, density and landscaping.

- Coffs Harbour City Council, Local Environmental Plan 2000

The site is zoned 2E Tourist Residential, which allows and encourages the development of residential and tourist uses in this area. Residential units are in accordance with LEP 2000, in respect of the objectives of the zone and landform modification (with regards to the earth removal for the basement carpark).

- Compliance with DCP

Compliance with the Park Beach DCP has occurred in the areas of –

- Car parking (at one per unit with a floor area less than 100m² and two per larger unit).
- Density of development, generally complies with one unit per 80m² of land area, but exceeds it by 1.66% - not significant
- Height limited to four stories or 12m. This proposal is four stories in height and has a height of 12m to the underside of the eaves rising to 12.98m to the roof pitch. Therefore compliance occurred.
- Setbacks are to be 6m to the front, which is provided. Side and rear setbacks are to be 6m also and this has been provided with the exception of minor intrusions required for building modulation to the northern and western boundaries and is not intrusive, nor does it have a negative impact on the adjacent properties.

- Open space required is a minimum of 12 m² per unit, either on a balcony or at ground level. Each unit provides in excess of this requirement.
- Design – units are to be designed to provide a variety of built form. These units have been designed with a good variety of setbacks, style and design.
- Overlooking of adjacent properties has been reduced by screening, landscaping and setbacks. Adjoining properties to the north and south predominantly have their service windows facing onto this site, thereby reducing the impact of potential overlooking from this development.
- Overshadowing – the development provides adequate setbacks from the side and rear boundaries to keep overshadowing to an acceptable level during the winter months.

ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

The development application is not affected by the provisions of any Draft LEP.

iii. any Development Control Plan (DCP),

1.1 Tourist Residential DCP

The DCP's stated objectives are to:

- encourage tourism development
- ensure that the scale and intensity of residential and tourist development is appropriate to the environmental characteristics of the land and the locality
- promote ecologically sustainable development

This proposal complies with the objectives, but more particularly the second and third objectives of the DCP in that the DCP allows and encourages residential development as well as tourist development. Tourist development can have a higher density than residential development, but nonetheless, residential development is encouraged in this area. The development would also be ecologically sustainable in that no negative impacts would occur as a result of this development.

The DCP also refers all developments to the Park Beach DCP for this particular area.

1.2 Park Beach DCP

The Park Beach DCP outlines the development controls specifically for this area of Park Beach. The DCP's stated objectives are to:

- encourage tourist and high density development which is:
- innovative and responsive to the site's visual, environmental and cultural characteristics and is in accordance with the desired future character of the area, and

- provide a range and style of multi unit and tourist accommodation developments which are appropriate to the diversity of the people who live in and visit Coffs Harbour.

This proposal complies with the objectives of the DCP in that it provides a high-density multi-unit development and is innovative and responsive to the site's characteristics. Detailed compliance with the DCP has been outlined earlier in the report.

iv. the regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

Clause 92 of the Environmental Planning and Assessment Regulation 2000 provides that the document entitled "NSW Coastal Policy 1997" is to be considered in the determination of the development application.

This proposal does not conflict in any way with the NSW Coastal Policy.

B. the likely impacts of that development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality,

The development will not result in any adverse environmental impacts in terms of acid sulfate soils, or heritage significance. Social and economic impacts will be positive in terms of providing more attractive accommodation for a range of different household types and economic benefits from the construction and ongoing maintenance will be ongoing while the improved development will add economic benefit to nearby and surrounding properties.

C. the suitability of the site for the development,

The site is rectangular and regular in shape, is flat and currently developed with older style holiday units and motel. The site is also surrounded by similar, older style unit developments, with a mixture of double storey, three storey and even eight storey further to the north of the site. Council's recreation reserve is located opposite the site. Good vehicular access is provided to the site from Ocean Parade, with the rear laneway taking all exiting traffic from the site.

The site is appropriately zoned for residential development and use, while the proposal complies with Council's DCP for this area in terms of scale and size of development proposed. The area is in a gradual state of transition, with the recently adopted Park Beach DCP now starting to have an impact on development proposals for the area, allowing four-storey residential developments.

D. any submissions made in accordance with this Act or the regulations,

The application was advertised and notified and 10 submissions were received from the owners of units to the rear at Sassafras Holiday Village, primarily concerned about the loss of the vegetated rear laneway that their pool and recreation area looks onto. Concern is also expressed regarding the compliance with the DCP in terms of setbacks, open space, overshadowing, overlooking and general detrimental impact on the adjacent property to the west.

The development does comply with Council's DCP for this area and the areas of concern by the neighbours has been addressed in the report.

One submission was received from the southern units, supporting the proposal subject to the laneway being fully constructed to Boulwood Street at the applicant's expense. The construction of the laneway by the applicant and at their expense will be a condition of consent.

E. the public interest,

The application is considered to be within the public interest.

Development Application No. 455/05

Schedule of Conditions

Additional Details or Applications:

1. Submission of an application for Construction Certificate complying in all respects with the provisions of the Environmental Planning and Assessment Act, Local Government Act and the Building Code of Australia. Work on any building shall not commence until the Construction Certificate has issued and Council has been notified of the Principal Certifying Authority.
2. Individual water meters are to be provided to all units and common areas. A water reticulation plan is to be submitted to Council for approval prior to water fitting work commencing.
3. Stormwater being drained to Council's piped drainage system via a detention system. Design details of the system being approved by Council **prior to issue of the Construction Certificate**. The on-site drainage system is to be designed in such a way that the estimated peak flow rate from the site for the design average recurrence interval (ARI) of the receiving system is no greater than that which would be expected from the existing development. Calculations showing the effect of the proposed development on design storm run-off flow rates and the efficacy of proposed measures to limit the flows as set out in this condition are to be submitted with the design details.

These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

4. *Plans to be approved **prior to issue of the Construction Certificate** for the units which shows full width lane construction including kerb and gutter both sides including reconstruction of the drainage inlet at Boulwood Street, and relocation of the sewer main clear of the proposed pool.* The works are to conform with the standards and requirements set out in Council's Technical Guidelines for Subdivision and Development. These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

No engineering works are to be undertaken until plans and specifications have been approved by Council.

All work is to be at the developer's cost.

Plans and specifications submitted later than six (6) months from the date of development approval shall comply with the Technical Guidelines for Subdivision and Development current at a date six (6) months prior to such submission.

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Development Application No. 455/05

Schedule of Conditions

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5. The finished level of the ground floor of the building is to be a minimum of 5.1 metres Australian Height Datum and basement banded to 4.6 metres Australian Height Datum and a registered surveyor's certificate certifying such level is to be submitted to the Principal Certifying Authority prior to works proceeding beyond ground floor level. **Note: Steel inspections and floor timber inspections will not be passed without submission of this required certificate.**

6. Sealed driveways being constructed over the footpath, at right angles to the road, in accordance with Council's Standard Drawings (copy of details enclosed). Any existing driveways which are not required for the development are to be removed and the footpath and kerb reinstated.

These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

7. A sign indicating the name, address and telephone number of the Principal Certifying Authority, and the name and telephone number of the principal contractor (if any) must be erected in a prominent position on the site and maintained until the building work has been completed. The sign must also state that unauthorised entry to the site is prohibited. The signage must be erected prior to commencement of work.

Landscaping:

8. Landscaping being provided in accordance with the approved landscaping plan and maintained in accordance with that plan at all times.

These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

Sediment & Erosion Control:

9. Where excavation works or removal of vegetation is to take place on the site, control measures in accordance with Council's Erosion & Sediment Control Policy and Practice for Building & Development Sites to prevent the erosion of soil are to be undertaken at each appropriate construction stage.

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Development Application No. 455/05

Schedule of Conditions

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Pollution Control:

10. Effective measures shall be taken to suppress dust emissions during the course of development, with details of dust control being submitted **prior to issue of the Construction Certificate.**

11. Construction works are to be limited to the following hours:

Monday to Friday	7.00 a.m. - 6.00 p.m.
Saturday inaudible from adjoining residential properties, otherwise	7.00 a.m. - 1.00 p.m. if 8.00 a.m. - 1.00 p.m.

No construction work is to take place on Sunday and Public Holidays.

Energy Efficiency:

12. Hot water system(s) provided within the development is/are to comply with the requirements of Council's "Energy Efficiency Information Sheet". Heat pump type hot water units may cause a noise nuisance and are to be installed in a manner that will mitigate potential nuisance.

13. All kitchen and hand basin taps are to be fitted with flow restrictors and all showerheads are to be AAA rated (low flow).

All toilets are to be dual flush systems.

14. Prior to the issue of a **Construction Certificate**, certification from an accredited consultant* is to be provided to Council to the effect that the development is to achieve a 3.5 star NatHERS (Nation Wide Housing Energy Rating Scheme) rating or better.

* = a consultant who is accredited by the NSW House Energy Rating Management Body.

Height of Building:

15. The height of the proposed development is not to exceed the design heights as represented on drawing number DA07 Issue A dated August 2004. Written certification shall be submitted from a registered surveyor to confirm that the design height of the building has been undertaken in accordance with the approved plans. Certification shall be submitted to the Principal Certifying Authority at the following stages of development for the consideration and approval of the Principal Certifying Authority prior to proceeding to the next nominated stage of the development:

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Development Application No. 455/05

Schedule of Conditions

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- Upon completion of ground floor slab formwork and prior to placement of ground floor slab concrete.
- Upon completion of the building and prior to occupation.

Demolition:

15. The site shall be cleared of all waste materials and erosion control measures will need to be maintained on site after completion.
16. All demolition works shall be undertaken in accordance with the provisions of Australian Standard AS 2601-1991 "*The Demolition of Structures*". Prior to demolition, all services are to be disconnected and capped off.
17. All materials containing asbestos are to be handled in accordance with the relevant requirements of WorkCover NSW, the Occupational Health and Safety Act and Australian Standard AS2601-2001 "*The Demolition of Structures*".

Spoil from excavation:

18. Separate development consent being obtained from Council where spoil from the excavation is to be deposited off-site on land within the City of Coffs Harbour. This consent is to be obtained **prior to issue of the Construction Certificate**. This requirement does not apply if the spoil is deposited at a licensed landfill facility or where other arrangements are made that are acceptable to Council.

Building materials on footpaths and roadways:

19. The use of public footpaths and roadways for the storage of building materials is not permitted unless Council's written approval is first obtained. Such approval will only be granted where conditions warrant and in instances where public thoroughfare will not be adversely affected.

Hoardings:

20. A properly constructed hoarding is to be erected in all cases where occupation of the footpath/roadway is necessary for building purposes or where public safety is involved.

Waste Management:

21. The ground level waste storage area shall be provided with a washdown facility and be graded and drained to the sewer in accordance with Council's Code for the Storage and Handling of Waste. The area shall also be roofed to prevent rainwater entering the sewer.

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Schedule of Conditions

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Car Parking:

22. Thirty-seven (37) car parking spaces being provided on the development site. All car parking and vehicular manoeuvring areas being constructed in accordance with Council's Off-Street Carparking Development Control Plan and Australian Standard AS 2890.1-1993. Carparking areas are to be maintained in a serviceable condition at all times.

Acid Sulfate Soils:

23. The "*Acid Sulfate Soils Management Plan*" included as Appendix C of the "*Preliminary Geotechnical Assessment*" dated 12 October 2004, prepared by Coffey Geosciences Pty Ltd, shall be implemented in full.

All works associated with the implementation of the management plan are to be supervised by a qualified environmental/engineering/soil science professional.

Consideration shall be given to impacts on adjacent areas of Potential Acid Sulfate Soils with regard to dewatering activities during earthworks and construction. Dewatering water shall not be discharged to the stormwater system without monitoring to ensure pH, Total Suspended Solids (TSS) and other parameters satisfy ANZECC criteria and the Protection of the Environment Operation Act.

A report shall be provided to Council within one (1) month of the successful completion of the Management Plan detailing the methods used and the amount of lime used.

Water & Sewerage Services:

24. The **Construction Certificate not being released** until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

Developer Contributions:

25. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

	Total for development
Co-ordination and administration	4,923.36
Coffs Harbour Road Network	24,656.86
Surf Rescue Equipment	1,250.90
Regional Libraries	4,424.28
Beach Protection Works	1,761.48
Regional Open Space	6,520.57
Coffs Harbour District Open Space	18,359.71

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Schedule of Conditions

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The Section 94 contribution is currently \$40,422.43 for the 26 unit development.

Note, this amount includes a credit of \$21,474.74 for the existing motel development.

The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.

Swimming Pool & Spa:

26. The permitted hours of operation of the pool and spa pumps are 7.00am to 8.00pm weekdays and Saturday, and 8.00am to 8.00pm on Sundays and public holidays.
27. The permitted hours of use of the pool and spa are 7.00am to 9.00pm Mondays to Saturday, and 8.00am to 9.00pm on Sundays and public holidays.
28. Fences, gates, walls, etc. enclosing the general swimming pool area are to be maintained in good repair and condition at all times.
29. The immediate surrounds of the pool are to be completely enclosed with an approved type fence and gates complying with the Swimming Pools Act 1992.
30. All mechanical equipment is to be adequately soundproofed so as not to create a noise nuisance in terms of the Protection of the Environmental Operations Act 1998 and supporting regulations.
31. All wastewater is to be connected to Council's sewer main via a suitable 100 mm diameter gully trap. A minimum air gap of 100 mm is to be provided between the discharge outlet and the gully grate.
32. A resuscitation chart is to be permanently fixed and displayed in a prominent position within the pool surrounds area prior to occupation inspection.
33. The pool is not to be filled with water until a safety fencing inspection has been carried out and an approval granted by the Principal Certifying Authority.

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Development Application No. 455/05

Schedule of Conditions

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Rural Fire Service requirements:

- 34. Construction shall comply with Australian Standard AS 3959-1999 level 1 "*Construction of Buildings in Bushfire Prone Areas*".
- 35. Where not already in place, the locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

Dewatering Systems:

- 36. **Prior to issue of a Construction Certificate**, a detailed management plan outlining the dewatering systems for both the short and long term development of the site, is to be submitted to and approved by Council.

Foundations:

- 37. **Prior to issue of a Construction Certificate**, details of the pile type used for the foundations are to be submitted to and approved by Council. **Note:** Driven pre-cast concrete piles are not to be used in this development, as per Table 5 of the Coffey Geosciences report, 2004.

PED43 DEVELOPMENT APPLICATION NO 1053/04 - MULTI-UNIT HOUSING DEVELOPMENT (156 DWELLINGS) AND COMMUNITY TITLE / STRATA TITLE SUBDIVISION - STAGED DEVELOPMENT - LOT 1, DP 119058, MASTRACOLAS ROAD, COFFS HARBOUR (THE SUMMIT)

Purpose:

This application is for the staged construction and subdivision of a multi-unit housing development on Lot 1, DP 119058, Mastracolas Road, Coffs Harbour. Conditional approval of the application is recommended.

Description of Item:

- **The Site**

The development site is located at the western side of the Pacific Highway with frontage to an unnamed road off Mastracolas Road at the site's southern boundary.

Access to the site is at the eastern end of the unnamed road.

The site has an area of 7.67 hectares; it is mostly cleared with some scattered native trees in the southern section.

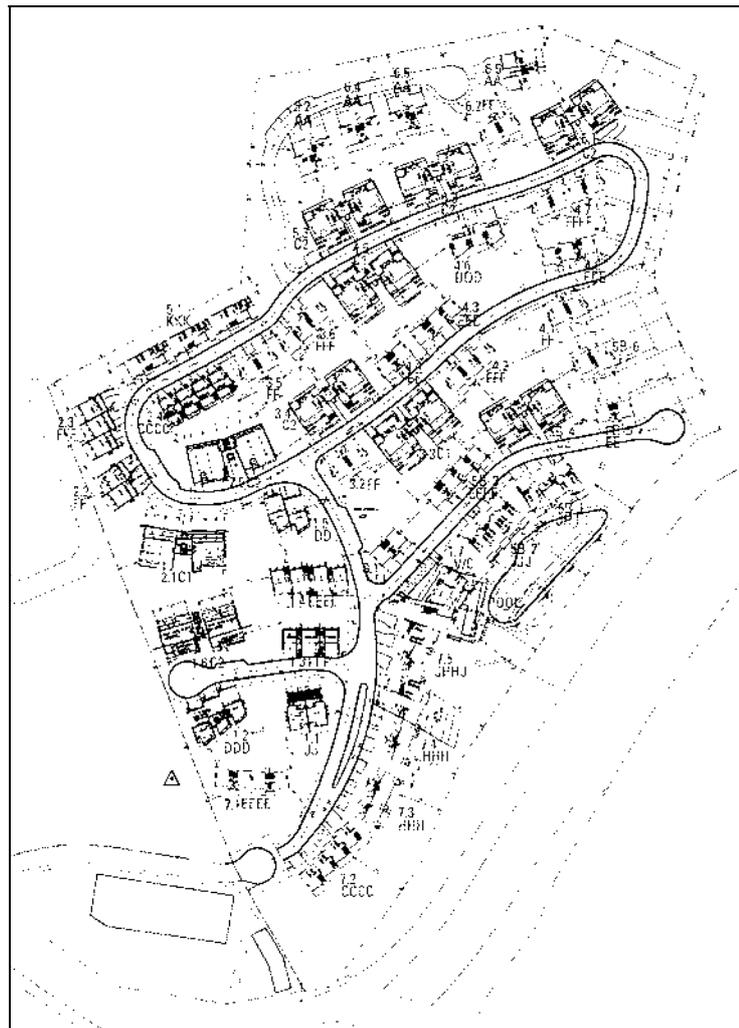
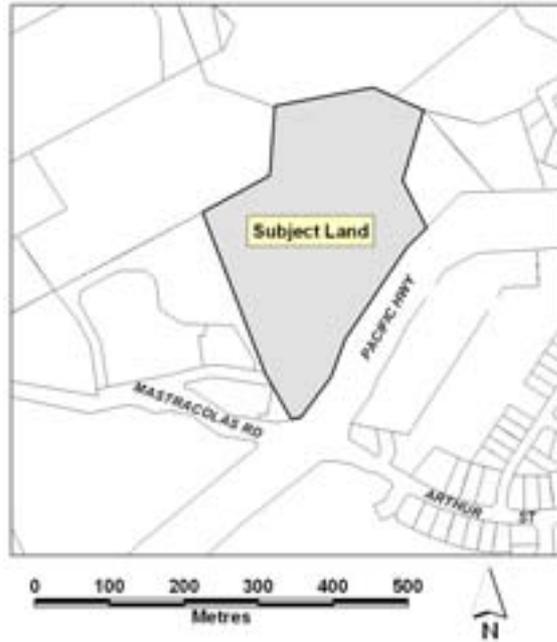
The site comprises relatively steep slopes throughout, and grades towards the south-east. Levels vary from RL 96m in the north-west to RL 15m in the south-east part of the site.

The site, with its south-eastern aspect, commands extensive and expansive views across the township of Coffs Harbour, to the Pacific Ocean and to areas further south. The location and site topography make the development property highly visible within the locality, particularly from the Highway and areas of Park Beach.

The area surrounding the site comprises forested rural land to the east, the Bunnings North bulky goods retail precinct and a small forested area to the south-west, cleared rural land to the north-west and adjoins the Big Banana property to the north.

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)



Site Plan

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

- **The Development**

The development application is for the staged construction and subdivision of 157 dwellings, comprising 72 apartment units, 84 attached dwellings in the form of dual occupancy and townhouse style buildings and a Village Centre including a swimming pool and manager's residence.

The development will be subdivided on a staged basis via a Community and Strata Title arrangement. Existing structures on the site will be demolished.

The building designs are responsive to the topographic features of the site. Buildings have been located clear of existing gully lines and most native vegetation on the site will be preserved. The development provides for the future landscaping of ridgelines, gullies and the Highway buffer. Roads and open space areas will be incorporated into the Community Lot to ensure a consistent, efficient and effective approach to management of common landscaping and infrastructure. No privately owned landscaped areas will be provided.

- **The Building Design**

The attached houses, apartments and the Village Centre/manager's residence have been architecturally designed and are responsive to the topography of the site and to views.

Attached houses are designed as lightweight buildings, in most instances founded on post and pier structures to minimise ground disturbance. Some buildings will have masonry understorey structures, but these are limited to garaging.

The apartment buildings are typically five level (one level for carparking) and comprise two wings, joined by a central lift and staircase. Generally the apartment buildings are up to 11 metres in height, measured to eave above existing natural ground level.

The final development will comprise 40 separate buildings (apartments, dual occupancies and townhouses). Each building will be separated by a minimum of five metres to allow for the comprehensive landscaping and re-vegetation of these areas. Greater separation of buildings occurs around the drainage gullies on the site (between 15m to 20m).

The architect in the design verification states that buildings have been "designed to be subservient to the landscape". This will be achieved by selecting materials and colours that will blend with the landscape. Building colours are generally dark, earthy tones, dark beiges, charcoal, brown tones, dark khakis and red-browns. Glazing is recessed or screened. Colours are proposed to be applied to the buildings in a random arrangement.

A materials and colours palette forms part of the Development Application Design Report and will be available for review in the Councillors' Room prior to the meeting. A model of the project is on exhibition at the Village Building Company's Office at Shop 7, Classic Corner, 77 Grafton Street, Coffs Harbour.

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

- **History**

The Development Application was lodged with Council in December 2003 for 177 dwelling units. The application has been subject to several referrals to the New South Wales Rural Fire Service (RFS) since lodgment date.

The RFS issued a conditional Bush Fire Safety Authority in October 2004 that acknowledged a bushfire hazard to the east of the site and consequently excluded 21 dwellings from the area located adjacent to this hazard. Hence the applications' amendment to 156 dwellings plus manager's residence. Details of this amendment were received from the applicant in November 2004.

Sustainability Assessment:

- **Environment**

The Development Application is accompanied by a comprehensive statement of environmental effects that addresses likely environmental impacts including visual impact, bushfire management, flora and fauna assessment, contaminated land assessment, geotechnical assessment, sediment and erosion controls, stormwater management, acoustic considerations and traffic assessment. Water harvesting for irrigation is also proposed as part of the development. Open ridgelines and clear Highway buffers and gullies on the site are intended to be re-vegetated with suitable native landscaping. Koala Habitat is to be preserved and enhanced.

- **Social**

An Aboriginal Cultural Heritage Assessment forms part of the application. The development includes a community building, with swimming pool, to provide for the social interaction of residents. The development site is in close proximity to services. The proposal is unlikely to result in adverse social impacts.

- **Economic**

Broader Economic Implications

The proposal is for a significant and substantial residential project with an estimated value of \$71,794,000.00. The development will be constructed in stages and will create employment opportunity in the construction industry and ongoing employment associated with marketing and sales and management of the new residential precinct.

Management Plan Implications

Nil

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

Consultation:

The application has been reviewed by the NSW RFS, Department of Infrastructure, Planning and Natural Resources (DIPNR), DEC (National Parks and Wildlife Service), the Council Advisory Committee (Traffic) and Council's Technical Departments.

The application is suitable for conditional approval.

Related Policy and / or Precedents:

This application may be viewed as a prototype for development on steep and highly-visible land.

Statutory Requirements:

- **Section 79C Evaluation**

Section 79C of the Environmental Planning and Assessment Act 1979 specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined.

The Section 79C evaluation is appended to this report (Appendix A) and provides a detailed assessment of the application.

- **Relevant Statutory Instruments**

- North Coast Regional Environmental Plan (REP)
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- Residential Tourist Lands Development Control Plan (DCP)
- Subdivision DCP
- Notification DCP
- Off-Street Car Parking DCP
- State Environmental Planning Policy (SEPP) No 11 - Traffic Generating Developments
- SEPP No 55 - Remediation of Land
- SEPP No 65 - Design Quality of Residential Flat Development

Issues:

- **Visual Impact**

The site is steep, expansive and highly visible from many parts of the Coffs Harbour urban area, particularly from Park Beach and the Pacific Highway. The site is visible, but distant, from Muttonbird Island.

To address visual impacts, particularly those associated with construction activity, the development proposes:

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

- The staged construction of the project - Stage One comprises up to eight townhouses and one apartment block (eight units).
- Civil works including earthworks under Stage One are restricted to the building area, to site roadworks, the detention basin in the Pacific Highway buffer and to the water supply.
- Stage One landscaping includes the building area, the entry road, the Highway buffer, all site boundary buffers and the ridgeline. Parts of the gully lines will also be landscaped.

General visual impact concerns are proposed to be ameliorated by:

- Not developing the site to its maximum permissible density (one dwelling per 200m² is permissible under Council's planning controls; the proposal provides a density of one dwelling per 490m²).
- Careful placement of buildings that are conscious of the site's attributes - by preserving most of the existing vegetation on the site, by avoiding development over drainage lines, by restricting the height of the development to below the ridgeline.
- The use of recessive colours in external building materials and finishes to blend with the landscape.
- The early implementation of revegetation planting.
- The integration of landscaping with the built form, e.g. it is proposed that tall trees be positioned diagonally off the lower portions of buildings to promote a canopy which meets or exceeds adjoining building heights. This planting will reduce the visibility of the built form from areas external to the site and frame views from the site.

There is no doubt that the development of this site will be highly visible. The site landscaping will take some time to reach mature heights so new buildings will be prominent for an interim period. This is a normal expectation with new development projects.

The application is accompanied by a set of photographs that depict the development at three stages - 12 months from commencement of construction; five years and 10 years from commencement of construction. These documents will be available for review in the Councillors' Room prior to the meeting.

- **Bushfire Hazard**

The application seeks approval for 157 dwellings plus a Village Centre. The original proposal was for 177 dwellings.

This reduction in dwelling yield is directly attributable to bushfire hazard and the requirements of the NSW RFS. Proposed dwellings positioned adjacent to the eastern boundary were deleted due to problems in achieving a complying asset protection zone. That is not to say that at some later stage the proponent may seek, via a separate application, approval for further dwellings in the eastern precinct of the site.

- **Response to Advertising and Notification**

The application was notified and advertised in accordance with Council's Notification DCP.

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

One submission was received from an adjoining property owner requesting that vegetation in proximity to their residence be limited in height to preserve views and to limit bushfire risk. This request is reasonable and the consent has been conditioned accordingly.

- **Benchmark for Hillside Development**

This application is for a substantial residential development on a very steep and highly visible land parcel. The surrounding precinct has been identified as an Urban Investigation Area. Council is likely to receive further applications for housing developments on land with similar site attributes. This application may be viewed as a prototype for such development .

As part of the pre-lodgment process the applicant, Council and a Council-engaged consultant/urban designer conducted a number of meetings to refine the project to an acceptable standard.

- **Residential Tourist Lands DCP**

This DCP specifies specific site development controls. The application satisfies the density and setback provisions of the DCP. In respect of height the Development Application Design Report (Appendix E) identifies that the proposed buildings generally achieve compliance with the maximum building height control, although some of the buildings (House Type A, DD and Apartment Buildings C1 and C2) marginally encroach this height limit. The variation is restricted to certain elevations of these buildings and is minor (1-2 metres above the 11 metre requirement). The variation is supported based on the site positioning of buildings, the design response, degree of exceedance proposed, landscaping and the use of recessive building materials and finishes. The height exceedance does not impact off-site.

Summary

Due to the unique nature of the site, the subject application does not propose a conventional residential development. The site has a number of special attributes - its Highway frontage, steep and varied topography, south-eastern aspect, and its "island" type location being surrounded by non-residential land zonings are some of the qualities and challenges that the site has to offer.

The various site constraints and opportunities have been investigated in the preparation of the application and a site responsive project has resulted.

The project preserves existing native vegetation and extensive revegetation of the site is proposed - particularly along the ridgelines, drainage gullies and adjacent to the site's boundaries.

The residential development for 157 dwellings is broken up into 40 buildings of diverse mix and height responsive to the site's topography, access, views and other considerations.

The project will be developed on an incremental basis, integrating the built form with the natural environmental characteristics of this site and neighbouring sites.

The proposal satisfies relevant statutory requirements, the development is permissible in the Residential 2E Tourist Zone with consent, the proposal satisfies the site-specific controls of the Residential Tourist Lands DCP, save that minor building height variations are sought for which sufficient planning merit has been demonstrated.

cont'd

Ped43 Development Application No 1053/04 - Multi-Unit Housing Development (156 Dwellings) And Community Title / Strata Title Subdivision - Staged Development - Lot 1, Dp 119058, Mastracolas Road, Coffs Harbour (The Summit) (cont'd)

Council's conditional support to the application is recommended.

Implementation Date / Priority:

Not applicable.

Recommendation:

That Development Application 1053/04 for the staged development of a multi unit-housing project comprising 156 dwellings, village centre and manager's residence, to be subdivided under a Community/Strata title arrangement, at Lot 1 DP 119058 Mastracolas Road Coffs Harbour be approved subject to conditions as appended to this report (Appendix B).

Attachments:

APPENDIX A

**Section 79C Evaluation
Development Application No 1053/04**

a. the provision of:

i. any environmental planning instrument, and

• North Coast Regional Environmental Plan (NCREP)

The NCREP provides development control parameters for residential projects, including density, access, public transport and site erosion controls (Clause 43). The development satisfies these planning principles. The report addresses density, access arrangements, sediment and erosion controls. The site is in close proximity to most town services. A bus stop is located on Mastracolas Road, close to the Highway flyover.

• State Environmental Planning Policy No 11 - Traffic Generating Developments

The application was considered by the Council Advisory Committee Traffic on 4 March 2004 when it was recommended that the application be approved conditional to the development meeting the requirements of Council's Subdivision Guidelines. Relevant conditions have been appended to the Consent.

• State Environmental Planning Policy No 55 - Remediation of Land

This Policy prevents Council from consenting to the development unless it has considered whether the land is contaminated, and if so, whether the land is suitable for the purpose of the development in its contaminated state, or if remediation is required the land will be adequately remediated for the purpose of the land use proposed.

The application is accompanied by a site investigation report. The land has previously been used for banana growing. The results of testing have identified arsenic concentrations within the site exceeding guidelines. Accordingly remediation is required. The consent has been conditioned accordingly.

• State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

The proposed apartment buildings are subject to the provisions of this Policy. The application comprises a comprehensive Design Report (in Appendix E of the development application) comprising site analysis, landscape response, sections and elevations of the buildings, photomontages. A colours and materials palette accompanies the application. A model of the project has been prepared (on view at the developer's Coffs Harbour Grafton Street office). The design verification statement accompanying the application addresses the Design Quality Principles of this SEPP (context, scale, built form, density, resource energy and water efficiency, landscape, amenity, safety and security, social dimensions and aesthetics).

- **Coffs Harbour City LEP 2000**

The site is zoned Residential 2E Tourist and Environmental Protection 7B Scenic Buffer.

Other than landscaping a section of internal roadway and stormwater quality measures, no works are proposed in the 7B Zone.

The development of multi unit housing and subdivision is permissible under LEP 2000 with the consent of Council.

Part of the site is mapped as Primary Koala Habitat. The site also adjoins areas of Primary Koala Habitat. The application is accompanied by a flora and fauna assessment. The assessment has been reviewed by Council's Natural Resources Section. Minimal native vegetation loss is proposed due to the development. Importantly comprehensive landscaping and revegetation is proposed for the site, using preferred koala habitat trees. Considerations of the KPOM including zero net loss of primary habitat, threats to koalas from the development, impacts to adjacent habitat and corridors, barriers to koala movement, fencing, lighting, traffic speeds and road design, preferred plantings, and fire protection zones have been adequately considered in the design of the project (Clause 12).

Proposed site landform modification is limited to benching for services, roads and building platforms. Site works also include remediation of contaminated land. These works are subject to sediment and erosion controls (Clause 13).

The development will be connected to reticulated services. Water reticulation requires the installation on site of storage tanks. On site services will be private services, with ongoing maintenance the responsibility of the Community Management. Adequate capacity exists within Council's system to service the development (Clause 14).

ii. **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft instruments relevant to the land or to the proposed development.

iii. **any Development Control Plans (DCP)**

- **Notification DCP**

The application as advertised and notified in accordance with the DCP. One submission was received.

- **Subdivision DCP**

The proposed subdivision is unconventional but is suitable for the nature and complexity of the proposed development. Roads and Services within the development will be in private ownership managed by the Community Scheme.

The relevant provisions of the DCP covering site constraints, servicing, lot areas are satisfied. Due to the proposed Community/Strata subdivision arrangement a number of the DCP controls are not relevant, e.g. Road Standards and Street Tree Planting. The objectives of the DCP have been met by the DCP.

- **Off Street Carparking DCP**

The development satisfies the requirements of this DCP in regard to the number of carparking spaces provided.

- **Residential Tourist Lands DCP**

The application satisfies the design principles, access and parking, privacy, energy efficiency, environmental/site constraints, services, erosion and sediment control, open space and landscaping and off-site infrastructure requirements of this DCP.

In relation to specific controls of density, setbacks and height the following is noted:

- **Density:** the proposed 157 dwellings is substantially under density (1:490m² in lieu of 1:200m²) but this density is site responsive.
- **Setbacks:** the proposal satisfies the front setback of 20m (to the Highway boundary). Other boundary setbacks are considered suitable (assessed on merit).
- **Height:** the height limit under this DCP is 11m to eave. This limit is exceeded (minimally) on a number of buildings. Typical House Type A, House Types DD and DCD and apartments C1 and C2 encroach the 11m requirement from eave to natural ground level immediately below. However, these encroachments are marginal, affect predominantly only part elevations of these buildings and do not impact off site. Nor do these exceedances impact adversely on buildings and open spaces within the site. No objection is raised to this departure from the DCP site-specific controls.

iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph) that apply to the land to which the development application relates,

There are no regulations under the Environmental Planning and Assessment Act relevant to the proposal.

b. the likely impacts of that development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality,

The proposal is one of the City's first large-scale steep land residential projects that incorporates residential flat developments (save for some jetty projects at Camperdown Street on conventional sized lots). The site is an "island" type site and the proposal will transform the existing character of the local precinct. The bulk, height and scale, together with building placement/buffer treatments of the project are considered acceptable for the site.

In terms of natural environment the development has careful regard to flora and fauna (Koala Habitat in particular), gullies will be preserved and enhanced, ridgelines will be revegetated and corridor enhancement is proposed. Landform modification works will be controlled to address potential for sediment loss. The contaminated site will be remediated as part of the works. Water harvesting is proposed for irrigation of landscape areas. The development is car-based, but the site is in close proximity to services, including public transport. The site will be provided with normal residential services.

Social and economic impacts of the development are positive; the project includes a community building for social interaction. The project cost is estimated at over \$70,000,000 and will provide a stimulus to the local economy from construction activity and ongoing operational activities.

c. the suitability of the site for the development,

The proposal satisfactorily addresses the numerous site constraints - from flora and fauna, access, topography, services, contaminated land, Highway frontage, visibility, water quality and management and bushfire risk.

The project is considered to "fit" satisfactorily in the locality - the project will be visible during and post-construction - this is to be expected.

d. any submissions made in accordance with this Act or the regulations,

Following advertising and notification of the application in accordance with Council's Notification DCP, one submission was received, concerned that revegetation of the site may block views and contribute to bushfire risk. The consent has been conditioned to address this risk/issue. The application was also formally considered by DIPNR, as integrated development, and approval terms have been issued. The NSW Police were consulted on the application, the consent conditioned accordingly. The application was reviewed by the Council Advisory Committee Traffic; no objections were raised to the proposal. The Department of Environment and Conservation (NPWS) also considered the application and matters raised by this agency have been satisfactorily addressed in the development. The NSW Rural Fire Service considered the application as Integrated Development and approval terms have been issued for the development (see report to Council).

e. the public interest,

The public interest is not adversely affected by the proposal. The development accords with the relevant planning controls and will result in positive economic and social outcomes. Stringent environmental controls have been appended to the consent, the development has satisfied the environmental constraints posed by the site.

**Development Application No 1053/04
Schedule of Conditions**

The Development Consent

- This consent is for 156 dwelling units, a Village Centre, pool and manager's unit with related infrastructure and landscaping.

The consent recognises the demolition of existing structures on the site.

The consent recognises the staged subdivision of the development under a Community Title / Strata Title arrangement.

The relevant plans/documents include:

- Landscape Staging Plan 4.11.04 Issue C.
- Site Plan CDA 05 01 April 2004 (Note Buildings 6.1, 4.7, 4.8, 5B-6 and 5B-5 are deleted and excluded from this consent).
- Staging Plan "coloured Precinct Plan" CDA 08 02 April 2004.
- Village Centre Site Plan, Ground Floor, Upper Floor, Elevations, Sections DD1.7, D01 A, D02 A, D03 A, E01 A, E02 A, FO1 A, November 2002.
- Development Application Design Report Appendix E, December 2003 (Note Buildings 6.1, 4.7, 4.8, 5B-6, 5B-5 are deleted and excluded from this consent).
- Landscape Master Plan Report, Appendix F, 9 December 2003.
- Materials and Finishes Palette.
- Irrigation Strategy and Roof-Water Harvesting Drawing No L-IR-1001-B, Edaw Gillespies.

Staging of the Development

- This Development Consent recognises that the development will be staged generally in accordance with the Staging Plan. Stage One is to comprise:
 - Landscaping incorporating Precincts One and Two, the entry road, the Highway buffer, all site boundary areas including the ridgeline (see Landscape Staging Plan 15 April 2004).
 - Civil works will generally be restricted to Precincts One and Two with the exception that civil works will extend to include roadworks, the detention basin and the water supply.
 - Eight townhouses and one apartment building comprising eight units.

Geotechnical Requirements

- Specific Geotechnical reports are to accompany each application for Construction Certificate (separate Constructions Certificates being obtained for each stage of the development).

Each report is to assess the potential for cumulative slips in the event of failure of a higher development, with each building unit within the site, roadworks and underground service corridors to be investigated to ensure relevant and appropriate building construction techniques are employed.

Landscape Details

- A detailed landscape plan is to be submitted to Council for approval prior to the release of the Construction Certificate for the relevant stage of the development. The plan must be prepared and certified by a qualified architect, landscape architect or professional landscape consultant. The plan is to comply with Council's Landscaping Guidelines, and is to incorporate measures to ensure the maintenance and survival of the landscaping. All landscaping is to be carried out in accordance with the plan and maintained in accordance with the plan at all times.

Each landscape plan for each Stage is to accord with the provisions of the Landscape Master Plan Report prepared by EDAW Gillespies and dated 9 December 2003.

Each landscape plan is also to incorporate the following criteria, as relevant to the particular stage:

- New landscape works are not to damage or interfere adversely with existing native trees.
 - Understorey native shrubs and grasses are to be encouraged by managing weed and non-indigenous species.
 - Vegetated borders or clumped plantings of appropriate native species (see Appendix A of the Flora and Fauna Assessment prepared by Aspect North dated 4 December 2003), including Forest Oak being established around the development and along boundary lines to create linkages between areas mapped as Primary Habitat under the Coffs Harbour City Koala Plan of Management.
 - Spaces between buildings and along drainage lines being planted with appropriate native species to permit fauna movement across the site.
 - Landscaping must have regard to bushfire safety controls.
- Landscaping of that area of side boundary setback situated adjacent to the Mitchell's property, Lot 2 DP 629436 (between the internal road and Lot 2 DP 629436 and located between RL 90 and the commencement of the recessed parking bays on the development site's internal road) being restricted to a maximum mature growth height of 6 metres.
 - Prior to occupation inspection, a works-as-executed plan is to be submitted to the Principal Certifying Authority certifying that all landscaping works have been carried out in accordance with the approval plan.

Site Remediation

- Submission of a comprehensive sediment and erosion control plan that addresses the provisions of Part 6 "EPA Guidelines for Vertical Mixing of Soil on Former Broad Acre Agricultural Land". This plan is to be approved by Council prior to the commencement of any site remediation works.

The controls are to be implemented prior to and maintained during the remediation works.

Site Remediation Works

- Submission of a Site Remediation Validation Report to Council within one month of the completion of the Remediation Action Works, the report to accord with the Environmental Protection Authority Guidelines, National Environmental Protection Measure and State Environmental Planning Policy No 55 "Remediation of Land"

Community Title/Strata Subdivision

- Submission of a Draft Community Management Plan prior to any application for occupation of Stage One of the project. The Plan is to detail:
 - Authorisation for waste vehicle servicing.
 - Revegetation Management Plan.
 - Exclusion of dogs from the development to aid in the protection of koalas and other native fauna.

"Safer by Design" Considerations

- To promote Safer by Design considerations in the development the following elements are to be incorporated in the project:
 - Provision of surveillance of the common pool areas.
 - Security gates not being installed at the entry to the development.
 - All units being clearly identified by house numbering.
 - Installation of adequate lighting to common areas (internal and external).

Construction - Noise Attenuation

- The dwellings being constructed in materials and finishes in accordance with the recommendations of Hyder Consulting Pty Ltd - "Acoustic Report" of 5 December 2003 as specified on page 15 of this report. Alternative materials and finishes may be used conditional to these elements satisfying the same or higher sound rating performance.

Certification from the supervising architect or Acoustic Consultant to the effect that this condition has been satisfied being submitted to the Principal Certifying Authority prior to the issue of the Occupation certificate.

Drainage Line Works, Including the Western Drainage Line

- Works associated with the site drainage lines are to be undertaken promptly and where possible completed in the one operation.
 - Flows from the drainage lines shall be transferred safely to appropriate receiving stormwater infrastructure.
 - Stacked rock shall be used in lieu of the proposed rock gabions within the site drainage lines. Note, graded downstream ramps would promote better movement for fauna, reduce visual impact and reduce potential erosion immediately downstream of the structure.
 - Activity within the western drainage line shall not increase the potential for bed or bank erosion.
 - Stripping of soils from within the western drainage line shall be limited to those areas requiring contaminated soil remediation.

Aboriginal Cultural Heritage

- In the event that Aboriginal artifacts or relics are located during subdivision works all works must cease and the Department of Environment and Conservation (NPWS) notified forthwith.
- Site monitors being engaged during earth disturbance works on the spur and the saddle areas. The site monitors also being engaged to review possible objects of Aboriginal origin situated within the south-eastern corner of the development.

Waste Management - Construction

- The open air burning of tree loppings, stumps, other vegetation and construction waste arising from the development works is not permitted.

Waste Management - Operational

- The Community Management Statement authorising waste collection vehicles to enter upon the site and provide waste services as required by the Council of the City of Coffs Harbour.
- The internal road, including turning areas, being constructed to satisfy the load, skewing and turning movements of waste service vehicles.

Open Drainage Lines Management

- The cascading rock and ponds, supplemented by use of inlay geofabric and suitable vegetation/landscaping shall be designed and constructed to protect the gully bed and banks.

Water Conservation

- The development incorporating water saving devices, including AAA-rated shower heads, tap fittings with flow restrictors and dual flush toilets. Roof water drainage is to gravitate to a series of rainwater tanks for irrigation of middle level landscape areas. Details of water conservation devices being submitted with the Construction Certificate applications. Stage One (precincts 1, 1A and 2) to comprise 4 x 23.6kL tanks and Stage Two (remaining precincts), to comprise 6 x 23 kL tanks. The irrigation strategy is to generally conform to Plan L-IR-1001-B Irrigation Strategy - Roof-Water Harvesting.

Sediment and Erosion Controls

- Submission to Council for approval **prior to issue of the Construction Certificate** of a Sediment and Erosion Control Plan. These controls are to be implemented prior to, and maintained, during construction works.

Note 1: The Sediment and Erosion Control Plan may relate to the "whole of site" or alternatively separate Sediment and Erosion Control Plans being submitted to Council for approval prior to the release of each Construction Certificate.

Note 2: The Sediment and Erosion Control Plan is to include details for revegetation of disturbed areas.

Note 3: Steep cut faces to be stabilised with concrete and screen-planted using a mound adjacent to the road. The roads and pads being stabilised with ground cover to Council's requirements.

Vegetation Management

- All native trees on the site being protected from damage during construction works by appropriate barrier fencing.

No trees being removed from the site without written approval **being first obtained from Council.**

Approval for tree removal will only be considered following submission of a plan indicating trees to be removed and trees to be retained on the site. Trees identified for removal are to be suitably marked on site prior to Council's inspection.

Pollution Control

- Construction works are to be limited to the following hours:

Monday to Friday	7.00am - 6.00pm
Saturday	7.00am - 1.00pm
	if inaudible from adjoining residential properties
Otherwise	8.00am - 1.00pm

No construction work is to take place on Sunday and Public Holidays.

- Effective measures shall be taken to suppress dust emissions during the course of development, with details of dust control being submitted with the Sediment and Erosion Control Plans **prior to issue of the Construction Certificate.**

Access and Services

- Water, sewer, stormwater drainage, roads and concrete footpath being provided to serve the development with the works conforming with the standards and requirements set out in Council's Technical Guidelines for Subdivision and Development. These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

No engineering works are to be undertaken until plans and specifications have been approved by Council.

All work is to be at the developer's cost. Note, this includes any costs associated with infrastructure upgrading requirements.

- Plans and specifications submitted later than six (6) months from the date of development approval shall comply with the Technical Guidelines for Subdivision and Development current at a date six (6) months prior to such submission
- Individual water meters are to be provided to all units and common areas. A water reticulation plan is to be submitted to Council for approval prior to water fitting work commencing.
- Stormwater being drained to Council's piped system via a detention system. Design details of the system being submitted to Council prior to issue of any Construction Certificate. The on-site drainage system is to be designed in such a way that the estimated peak flow rate from the site is no greater than the undeveloped site for a full range of storms from 5% to 1% AEP.
- Calculations showing the effect of the proposed development on design storm run-off flow rates and the efficacy of proposed measures to limit the flows as set out in this condition are to be submitted with the design details.

These works are to be completed prior to occupation of the development unless other arrangements satisfactory to Council for their completion at some other time are made.

Dedication - Public Road Cul-de-sac

- The road surface only of the cul-de-sac public road entrance to the site being dedicated to Council at the time of registration of the linen plan of subdivision.

Energy Rating

- Hot water system(s) provided within the development is/are to comply with the requirements of Council's "Energy Efficiency Information Sheet". Heat pump type hot water units may cause a noise nuisance and are to be installed in a manner that will mitigate potential nuisance.

Prior to the issue of a **Construction Certificate**, certification from an accredited consultant* is to be provided to Council to the effect that the development is to achieve a 3.5 star NatHERS (Nation Wide Housing Energy Rating Scheme) rating or better. * = a consultant who is accredited by the NSW House Energy Rating Management Body.

Applications

- A separate application is to be made to Council by the licensed plumber and drainer **prior to the commencement of any sanitary plumbing and drainage work on site.**

Use

- The development not being occupied until the approval of the Principal Certifying Authority has been obtained beforehand.

Construction - Pool

- The immediate surrounds of the pool are to be completely enclosed with an approved type fence and gates complying with the Swimming Pools Act 1992.
- All mechanical equipment is to be adequately soundproofed so as not to create a noise nuisance in terms of the Protection of the Environmental Operations Act 1998 and supporting regulations.
- All wastewater is to be connected to Council's sewer main via a suitable 100 mm diameter gully trap. A minimum air gap of 100 mm is to be provided between the discharge outlet and the gully grate.
- A resuscitation chart is to be permanently fixed and displayed in a prominent position within the pool surrounds area prior to occupation inspection.
- The pool is not to be filled with water until a safety fencing inspection has been carried out and an approval granted by the Principal Certifying Authority.

Construction - Building and Infrastructure

- Submission of an application for Construction Certificate complying in all respects with the provisions of the Environmental Planning and Assessment Act, Local Government Act and the Building Code of Australia. Work on any building shall not commence until the Construction Certificate has issued and Council has been notified of the Principal Certifying Authority.

- Garbage storage and facilities being provided in accordance with Council's code for storage and handling of bulk waste, with details being submitted to Council for approval **prior to issue of the Construction Certificate**.
- Access and facilities for disabled persons being provided to the Village Centre and the pool area in accordance with the Building Code of Australia provisions. Details are to be submitted **prior to issue of the Construction Certificate**. The developer's attention is drawn to the provisions of the Disability Discrimination Act 1992.

Signage

- A sign indicating the name, address and telephone number of the Principal Certifying Authority, and the name and telephone number of the principal contractor (if any) must be erected in a prominent position on the site and maintained until the building work has been completed. The sign must also state that unauthorised entry to the site is prohibited. The signage must be erected prior to commencement of work.

Bushfire Hazard Management

- A Plan of Management shall be prepared for the entire site that specifically addresses the maintenance of the area adjacent to the vegetation to the east of the site, which is to be maintained as an APZ. The APZ is to be determined in accordance with group 1 vegetation and appropriate slope. The plan shall also incorporate the proposed landscaping on the site and measures to be undertaken to address bushfire protection in relation to the landscaping.
- Development shall be in accordance with recommendations 3(b) and (c) contained with the Bushfire Management Assessment prepared by Boambee Forestry Service dated 3 November 2003. Recommendation 3(d) shall be amended so that dwellings within 100m of the vegetation to the east are to be constructed to comply with AS3959-1999 level 1 'Construction of Buildings in Bushfire Prone Areas'.

Recommendation 3(b), (c) and (d) to read as follows:

- (b) Constructing the proposed roads that give access through the Lot to the dwellings to the following standards:
 - Two wheel drive, formed and sealed to at least 8m with two 3m lanes.
 - Maximum grade of 15⁰ .
 - The road surface to have a capacity of about 28 tonnes, sufficient to carry a fully loaded fire-fighting vehicle.
 - Incorporating a minimum 9m radius turning circle with mountable kerbs together with a footpath reservation formed to 12m radius with a subgrade of roadbase gravel and grassed surface at dead ends.
 - Dead end roads to be clearly sign posted as dead end.
 - (c) Providing reticulated mains water through the Lot and hydrants along the proposed access road through the Lot in accordance with AS2419.1 and/or as specified by the Rural Fire Service.
 - (d) Construct the proposed dwellings to Level 1 standard as per AS3959 where located within 100m of the vegetation to the east.
- Staging is to occur so that the roads are provided with temporary turning circles complying with Section 4.3.1 of Planning for Bushfire Protection 2001, until such time as the next stage is developed.

Water and Sewerage Services

- The Construction Certificates not being released until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

Works to satisfy increased demand within the area for 157 dwellings		Amount/unit	Total
		\$	\$
Water	Headworks	4,225.09	663,339.13
	Reticulation	1,602.62	251,611.34
Sewer	Headworks	1,392.88	218,682.16
	Reticulation	2,586.77	406,122.89
Sub-Total			1,539,755.50
Less credit for 1 lot			9,807.36
Total Amount Payable			1,529,948.20

Developer Contributions

- Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

		\$ per unit
Coordination & Administration		294.56
Open Space	Regional Facilities	346.33
	District Facilities	975.15
Beach Protection Works		93.56
Regional Libraries		234.99
Coffs Harbour Road Network		1,475.20
Surf Rescue		74.84
Total Unit		3,494.63

The Section 94 contribution is currently \$545,162.28 for the 157 unit development.

Note, this amount includes a one lot contribution rate credit of \$3,494.63.

If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

The contributions are to be paid prior to release of any construction certificate unless other arrangements acceptable to Council are made.

Submission **prior to issue of the Construction Certificate** of a Sediment and Erosion Control Plan approved by the Department of Land and Water Conservation. These controls are to be implemented prior to, and maintained, during construction works.

PED44 PUBLIC EXHIBITION OF ENVIRONMENTAL IMPACT STATEMENT FOR COFFS COAST RESOURCE RECOVERY FACILITY

Purpose:

This report recommends that authority be delegated to the Mayor and General Manager to adopt the Environmental Impact Statement (EIS) for the Coffs Coast Resource Recovery Facility (CCRRF) for the purposes of public exhibition. The EIS will be placed on public exhibition for a period of not less than 30 days, with a further report being put to Council at the conclusion of the exhibition period.

Description of Item:

Coffs Harbour City Council (CHCC), in conjunction with Nambucca Shire Council (NSC) and Bellingen Shire Council (BSC), has appointed Biomass Solutions (Coffs Harbour) Pty Ltd (Biomass) to build, own, operate and transfer the Coffs Coast Resource Recovery Facility (CCRRF) at Lot 10, DP 1016942, Englands Road, Coffs Harbour.

An EIS is being prepared for the CCRRF and associated works in accordance with Part 5 of the Environmental Planning and Assessment Act 1979. An EIS Working party, which comprises representatives of CHCC, BSC, NSC, Biomass, and consultants, has been formed to steer the preparation of the EIS. Consultant GHD Pty Ltd has been appointed to prepare the EIS document. Several sub-consultants have been engaged to prepare the studies necessary for the EIS including, geotechnical, hydrological, groundwater, stormwater, site design, traffic, visual amenity, flora and fauna, aboriginal heritage, waste stream characterisation, noise, and air quality.



Waste Management Facility Englands Road, Coffs Harbour

cont'd

Ped44 Public Exhibition Of Environmental Impact Statement For Coffs Coast Resource Recovery Facility (cont'd)

The EIS is nearing completion and it is anticipated that the document will be completed and ready for public exhibition and referral to relevant agencies early January 2005.

Due to the Christmas New Year holiday break and the lack of Council meetings, which could potentially delay the project, endorsement is now sought to delegate authority to the Mayor and General Manager to place the EIS for the CCRRF and associated works on public exhibition, when the EIS is completed in early January. It is proposed that the EIS be placed on exhibition for a period of not less than 30 days.

Sustainability Assessment:

The CCRRF has been the subject of previous reports and sustainability assessments. The current EIS phase of the project involves comprehensive assessment of the proposal in respect to environmental, social and economic impacts. These impacts will be reported in detail in the EIS document and reported to Council early 2005, when the public exhibition period has concluded.

The construction of the proposed CCRRF will increase the amount of waste to be recycled and reduce the amount of waste to landfill.



Impression of the proposed CCRRF

cont'd

Ped44 Public Exhibition Of Environmental Impact Statement For Coffs Coast Resource Recovery Facility (cont'd)

Consultation:

Consultation undertaken with relevant statutory agencies and authorities in preparing the EIS has included:

- The Director-General of the Department of Infrastructure, Planning and Natural Resources was consulted to obtain the Director-General's Requirements for the EIS as required under the *NSW Environmental Planning and Assessment Regulation 2000*.
- Letters were sent to all relevant government authorities regarding the proposed Activity.
- A presentation was made to the Department of Environment and Conservation's Environment Protection Authority to discuss details of the proposal and the likely licensing requirements for the proposed Activity.

On 20 October 2004 Council facilitated a Community Consultation Meeting to inform directly affected landowners about the proposed development and discuss the potential environmental and social issues that needed to be addressed by the EIS. Subsequent newspaper advertorials and advertisements were placed in the Coffs Coast Advocate to advise the wider community about the project. The EIS will be placed on public exhibition in order to allow for agencies and the general community to comment on the proposed development.

Statutory Requirements:

Under Council's Local Environment Plan 2000 (LEP 2000), as amended February 2003, the proposed CCRRF and associated works does not require Development Consent under Part 4 of the Act (Clause 12, Schedule 1, LEP 2000), and will therefore be determined under the provisions of Part 5 of the Act.

The activity is caught by the provisions of Schedule 1 under the Protection of the Environment Operations Act 1997 (POEO), being a waste facility which will process more than 30,000 tonnes of waste per year. Therefore, the Department of Environment and Conservation - Environment Protection Authority is an appropriate regulatory authority under POEO and a licence is required in respect to the construction and operation of the CCRRF. A licence amendment will likely be required in respect to the existing Englands Road waste management facility.

As this is an Activity, rather than Development, the provisions of SEPP 11 do not apply, therefore formal approval of the Local Traffic Committee and the Roads and Traffic Authority is not required.

For the purposes of the Act, the determining authorities are Coffs Harbour City Council and the Department of Environment and Conservation – Environment Protection Authority, the Department of Planning and Natural Resources and, possibly, Bellingen Shire Council and Nambucca Shire Council.

Pursuant to an Order issued on 14 May 1999 by the Minister for Urban Affairs and Planning under section 110A of the Environmental Planning and Assessment Regulation 2000, Council as the proponent for this activity is the nominated determining authority.

cont'd

Ped44 Public Exhibition Of Environmental Impact Statement For Coffs Coast Resource Recovery Facility (cont'd)

Council has sought and is in receipt of a letter from the Department of Infrastructure, Planning and Natural Resources with the Director-General's requirements for the preparation of the EIS.

The EIS will be publicly exhibited for a period of not less than 30 days in accordance with the requirements of Section 113 of the EP & A Act and Clauses 233, 234 and 235 of the EP & A Regulations.

Under Section 377 of the Local Government Act, Council may by resolution delegate to the General Manager and the Mayor certain functions of the Council. The Act does not preclude delegation of functions for the purposes of Section 113 of the EP&A Act.

Implementation Date / Priority:

At this stage it is anticipated that following adoption of the EIS and public exhibition, the EIS be put to Council's PED meeting in April 2005 for final determination. This will trigger commencement of site preparation works (16 weeks duration) and then construction of the CCRRF (40 weeks duration).

cont'd

Ped44 Public Exhibition Of Environmental Impact Statement For Coffs Coast Resource Recovery Facility (cont'd)

Recommendation:

It is recommended that:

- 1. Council delegate authority to the General Manager and Mayor, pursuant to Section 377 of the Local Government Act 1993, to adopt the Environmental Impact Statement (EIS) for the Coffs Coast Resource Recovery Facility (CCRRF), when completed, for the purposes of public exhibition in accordance with the requirements of S. 113 of the Environmental Planning and Assessment Act 1979.**
- 2. That four (4) copies of the adopted EIS be forwarded to the Director-General, Department of Planning and Natural Resources as required by s. 112(2) and s. 112(3) of the Environmental Planning and Assessment Act 1979.**
- 3. That, after the copies of the adopted Environmental Impact Statement have been forwarded to the Director-General, Department of Planning and Natural Resources, notice be given in accordance with the provisions of s. 113(1) of the Environmental Planning and Assessment Act 1979 and clause 233 and 234 of the Environmental Planning and Assessment Regulation 2000.**
- 4. That in accordance with clause 235 of the Environmental Planning and Assessment Regulation 2000 the adopted Environmental Impact Statement be made available for inspection at Council's Office, Department of Planning and Natural Resources (Sydney and Grafton Offices), Government Information Service of New South Wales (Sydney Office), the Sydney Office of Environment Centre (New South Wales) Pty Ltd and at the Coffs Harbour, Toormina and Woolgoolga Public Libraries during normal business hours at those places.**
- 5. That the period of exhibition be 30 days such period to begin on:**
 - a. the date on which the notice required by the Act and Regulation is first published in the daily newspaper circulating generally throughout the State,**
 - or**
 - b. the date on which the notice is first published in the local newspaper,**

whichever is the later.
- 6. That copies of the Environmental Impact Statement be sold to the public at Council's Office for \$25.00 per hardcopy and that soft copies be freely available through Council's website.**

PED45 SURPLUS ROAD CORRIDOR AT MACAULEYS HEADLAND

Purpose:

The purpose of this report is to seek Council's endorsement for the exhibition of a revised Draft Local Environmental Plan (LEP), Amendment No. 10 Macauleys Headland.

Description of Item:

The subject land is currently zoned 5A Special Uses (Classified Road) as it was part of a proposed road corridor. The land is currently under private ownership and is no longer required by the Roads and Traffic Authority for its intended purpose.

Council at its Planning Environment and Development Committee on 10 February 2000 resolved to prepare a Draft Local Environmental Plan for surplus road corridor land at Macauleys Headland.

On 12 July 2001 Council considered a Local Environmental Study and Draft Local Environmental Plan (LEP), which recommended the northern portion of the land to be zoned 7A Environmental Protection (Habitat and Catchment) and the southern portion to be zoned 2C Residential Medium-High Density (see Figure 1 below).



Figure 1: Original Draft LEP Macauleys Headland

cont'd

Ped45 Surplus Road Corridor At Macauleys Headland (cont'd)

Feedback on this Plan from a number of Government organisations suggested a revised rezoning proposal to provide greater environmental controls over the land.

In response to this, Council at its ordinary meeting on 24 January 2002 resolved:

1. That Council note the comments and recommendations made by State Government authorities in relation to the proposed zonings of the surplus road corridor.
2. That a stakeholder workshop be held to work through the issues with a desire to provide a zoning recommendation acceptable to the majority of the parties involved.
3. That the State Government authorities who made comment be advised of the proposed workshop for the surplus road corridor and be invited to attend.

Council facilitated a stakeholders' workshop on 19 March 2002, in which the outcome was to zone the northern section of the land to 7C Environmental Protection - Coastal Zone (without the acquisition component) to prevent any development occurring on the land that would detract from the significance of Macauleys Headland and the adjacent Regional Park. The acquisition component was removed, as there was no indication that the Coastal Council intended to acquire the land.

Despite the intentions of the workshop, there was no agreed outcome for the southern section of the land, with the (former) National Parks and Wildlife Service raising concerns about significant ecology on the site.

In response to this, Council at its Planning Environment and Development Meeting on 24 of April 2002 resolved:

1. That Council defer its decision on the southern section of the surplus road corridor pending further investigations of the vegetation identified by the National Parks and Wildlife Service
2. That Draft Local Environmental Plan Amendment No. 10 be referred to planningNSW for certification to exhibit.
3. That upon clarification from planningNSW to exhibit, the Local Environmental Study and Draft Local Environmental Plan amendment be exhibited.
4. That government authorities and all persons who may be directly affected by the proposed Draft Local Environmental Plan be advised of Council's decision.

Following certification from planningNSW the revised Draft LEP was placed on exhibition from 1 July 2002 to 30 August 2002 (see Figure 2 below).

cont'd

Ped45 Surplus Road Corridor At Macauleys Headland (cont'd)



Figure 2: Revised Draft LEP Macauleys Headland

Submissions received by Council in relation to the Draft LEP generally supported the move from 7A Environmental Protection (Habitat and Catchment Zone) to 7C Environmental Protection (Coastal Zone) on the northern section of the land. The RTA however, raised objections with the deletion of the word 'acquisition' as it was considered to be inconsistent with the zone. The RTA also opposed the deferral of the southern section of the land and recommended that both sections of the land be rezoned simultaneously.

In an attempt to pursue an appropriate zone for the southern section of the land, Council requested from the owners of the land a revised flora and fauna assessment and a Masterplan to demonstrate how medium density residential housing could be developed appropriately on the southern section of the site.

On the 20 of April 2004 Council received a Masterplan for the southern section of the land. On the 12 of November 2004 a revised flora and fauna assessment and a bushfire report were submitted to Council.

cont'd

Ped45 Surplus Road Corridor At Macauleys Headland (cont'd)

The owners of the land have now requested that Council support a revised rezoning of the land (as shown in the attachment to this report) and seek to resolve the Draft LEP as soon as practicable. This request is based on the results of the revised flora and fauna assessments and bushfire report (see issues below).

Sustainability Assessment:

- **Environment**

The rezoning of the land to Residential 2C Medium-High Density would result in the development of the land for residential purposes and the removal of both disturbed and intact native vegetation. The revised fauna and flora assessments state that the development of the site would have no significant impact on threatened species, populations, communities or critical habitat.

The assessments do, however, state that development of the southern section of the land would have an impact on habitat values within the study area and on adjoining vegetation. A number of measures are recommended in each report to ameliorate these potential impacts.

- **Social**

The rezoning and subsequent development of the land would change the character of the area significantly from a partially disturbed vacant headland with sporadic intact coastal vegetation to medium-high density residential housing. Visual impacts may result on adjacent residents, however the overall wellbeing of the local community would be enhanced due to improved access to the Regional Park and rehabilitation of degraded drainage lines and coastal vegetation.

- **Economic**

Broader Economic Implications

The development of the land provides for the continued growth of the City whilst enhancing the degraded Park Beach environment and providing a variety of housing opportunities.

Management Plan Implications

A Local Environmental Study (LES) was completed for the land in March 2001 and funded by the RTA. The Department of Infrastructure Planning and Natural Resources (DIPNR) has confirmed that the LES is still valid given that Flora, Fauna and Bushfire Assessments have been undertaken more recently. However, further delays in the rezoning process may require a new LES to be completed for which funds are not available. Furthermore, extensive staff resources have been utilised throughout the process and could continue to be utilised until a desired outcome is reached.

cont'd

Ped45 Surplus Road Corridor At Macauleys Headland (cont'd)

Consultation:

The rezoning process has involved extensive consultation, including Section 62 Consultation with Government Organisations and a stakeholders workshop that was facilitated by Council on 19 March 2002. Extensive community consultation has been undertaken throughout the entire process via Community Newsletters and as part of the exhibition process. Consultation has also been undertaken with the owners of the land and with Council's Environmental Services Branch in relation to the significant ecology on the site.

Related Policy and / or Precedents:

The existing zone will be repealed when the new LEP comes into effect.

Statutory Requirements:

The revised Draft LEP is subject to further consultation under Section 62 of the *Environmental Planning and Assessment Act* as it differs substantially from the previous Draft LEP which was exhibited. Consultation will be required with relevant statutory authorities, for example, DIPNR, Department of Environment and Conservation, Marine Parks Authority, Roads and Traffic Authority, and the Rural Fire Service. The Draft LEP also requires a Section 65 certificate from the DIPNR to enable its exhibition. Following the certification from DIPNR the Draft LEP must be exhibited in accordance with Section 66 of the *Environmental Planning and Assessment Act*. This requires the public notification and exhibition of the Draft LEP for a minimum of 28 days.

Issues:

- **Fauna**

The revised fauna assessment undertaken by Kendall and Kendall Ecological Consultants (November 2004) states that residential development of the site would have no significant impact on threatened fauna species, communities, populations or critical habitat. It was noted, however, that development of the site would have an impact on habitat values within the study area and on adjoining land. The report recommends mitigation measures to ameliorate the potential impacts of the proposed development.

- **Flora**

The revised flora assessment undertaken by Idyll Spaces Consultants (October 2004) states that development of the site would have no significant impact on threatened plant species, vegetation communities, plant populations, or critical habitat. The report does, however, state that development of the site could have an impact on adjoining native vegetation by means of further modification of drainage and spread of weeds. The flora assessment recommends mitigation measures to ameliorate the potential impacts of proposed development.

It should be noted that whilst Council supports the delineation of vegetation communities and dominant species identified on the site by Idyll Spaces, the flora assessment has understated the conservation status of various vegetation communities contained on the site. Council considers the vegetation to be of higher significance than low-moderate conservation value as specified in the report.

- **Bushfire**

The bushfire report recommends 40 metre Asset Protection Zones (APZ's) (including inner and outer protection areas). Figure 3 below illustrates the required APZ's and the area remaining for residential development. In summary, the recommended APZ limits the amount of land able to be developed, thereby reducing the potential impacts on adjacent ecology.

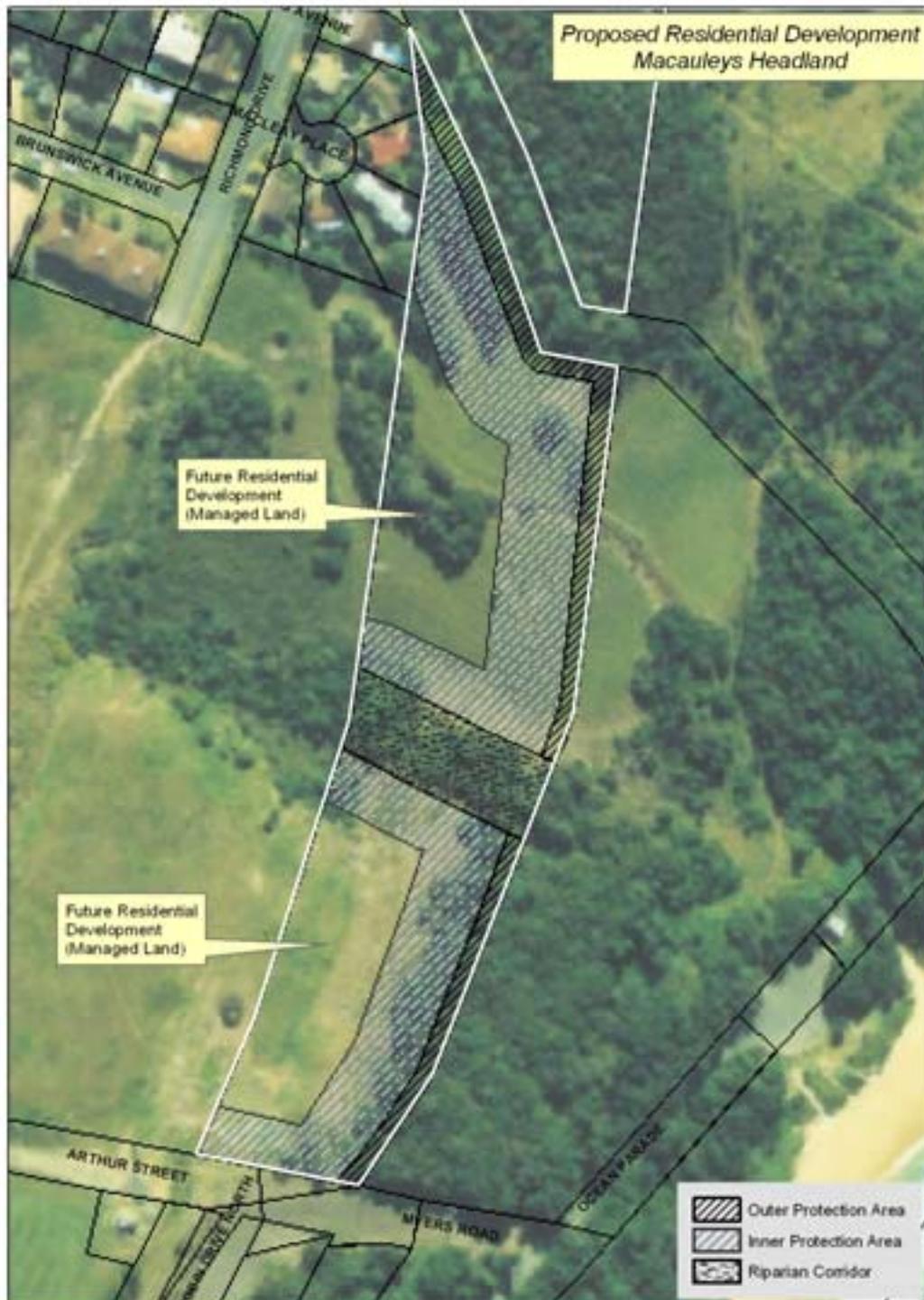


Figure 3: Asset Protection Zone and Developable Area

cont'd

Ped45 Surplus Road Corridor At Macauleys Headland (cont'd)

- **Tree Preservation Order**

To achieve the benefits of the 40m APZ's (hence less impact on adjacent ecology) It would be necessary to amend the Tree Preservation Order (TPO) to cover land zoned Residential 2C Medium-High Density where the lot has an area greater than 2000m² as the current TPO does not incorporate this zone. This would ensure that existing vegetation on the site is retained as part of the development process and that the 40m APZ's are provided in accordance with Figure 3 above.

Given that the TPO would apply to land greater than 2000m², it is unlikely to significantly impact other land within the Local Government Area.

Implementation Date / Priority:

Public exhibition of the Draft LEP will occur following issue of a section 65 Certificate from DIPNR, which may take some months. In the interim Council will commence consultation with relevant statutory authorities.

Recommendation:

1. **That pursuant to Section 54 of the Environmental Planning and Assessment Act, Council adopt the amended draft Local Environmental Plan for zoning changes to the surplus road corridor land on Macauleys Headland (as attached), and seek a Section 65 Certificate from the Department of Infrastructure Planning and Natural Resources to allow the exhibition of the Plan.**
2. **That Council in accordance with Clause II of the Coffs Harbour City Council Local Environmental Plan 2000 amend the Tree Preservation Order made at its meeting of September 2003 by extending it to apply to land within Residential Zone 2C Medium to High Density, where the lot has an area greater than 2,000m².**

Gina Vereker
Director, Planning Environment and Development

Attachments:

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
DRAFT
COFFS HARBOUR CITY LOCAL ENVIRONMENTAL PLAN 2000
(AMENDMENT NO 10)

I, the Minister for Planning, in pursuance of section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder. (.....)

Minister for Infrastructure and Planning

Sydney, 2004

1. Citation

This plan is *Coffs Harbour City Local Environmental Plan 2000 (Amendment No. 10)*.

2. Aims of plan

This plan aims to rezone land which was previously identified as a future motorway corridor:

- to protect Macauleys Headland
- to allow appropriate landuses
- to provide environmental protection and enhancement of coastal vegetation

3. Land to which the plan applies

This plan applies to Lot 1, DP 1031508, Diggers Beach Road, Coffs Harbour, as shown edged heavy black on the map marked "Coffs Harbour City Local Environmental Plan 2000 (Amendment No. 10)" deposited in the office of the Coffs Harbour City Council.

4. Amendment of Coffs Harbour City Local Environmental Plan 2000

Coffs Harbour City Local Environmental Plan 2000 is amended as set out in Schedule 1.

SCHEDULE 1 AMENDMENTS

(1) **Clause 8** What Zones apply in this Plan

Omit the word “acquisition” from the Environmental Protection 7C Coastal zone.

(2) **Clause 9** How Does The Development Control Table Work

Omit “Acquisition” from the heading Environmental Protection 7C Coastal Zone in the Table to this Clause.

Omit “nominated by the Coastal Council of NSW for acquisition under the Coastal Lands Protection Scheme” from the objective in the Table to this Clause.

(3) **Clause 20** Acquisition

Omit “or 7C” and insert with “or” in the matter relating to the 5A and 6A zones in subclause (5).

Omit “7C Environmental Protection - Coastal Lands Acquisition” in the Table to this clause.

Omit “The Corporation under the Act” in the Table to this clause.

(4) **Dictionary**, definition of **the map**

Insert in numerical order of amendments:

Coffs Harbour City Local Environmental Plan 2000 (Amendment No 10)



 Study Area

LOCALITY: Coffs Harbour


1:4000

DRAWN BY: RFG DATE: December 2004 SCALE: 1:4000
SHEET NO. 1 OF 1 SHEETS
COUNCIL FILE NO.
DEPT. FILE NO.
CERTIFICATE PLAN NO. DATE

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
**COFFS HARBOUR CITY
LOCAL ENVIRONMENTAL PLAN 2000**
Draft
Amendment No. 10

CERTIFICATE ISSUED UNDER SECTION 157(1) OF THE ACT
PREPARED BY: GUYE, GAO, INC. OF
COFFS HARBOUR
CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING
& ASSESSMENT ACT 1979 AND REGULATIONS.
GENERAL MANAGER DATE:



<p>2C Residential Medium-High Density</p> <p>7C Environmental Protection Coastal</p>	<p>LOCALITY: Moonee</p> <p>1:20000</p>
<p>DRAWN BY: Lisa DATE: Dec 2004 SCALE: 1:4000</p> <p>SHEET NO. 1 OF 1 SHEETS</p> <p>COUNCIL FILE NO.</p> <p>DEPT. FILE NO.</p> <p>CERTIFICATE PLAN NO. DATE</p>	<p>ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979</p> <p>COFFS HARBOUR CITY</p> <p>LOCAL ENVIRONMENTAL PLAN 2000</p> <p>Draft</p> <p>Amendment No. 24</p>
<p>CERTIFICATE NO. UNDER LOCAL ENV. ACT 1979 DATE:</p> <p>PUBLISHED IN GOVT. GAZ. NO. GP</p> <p>CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND REGULATIONS</p> <p>GENERAL MANAGER DATE:</p>	