



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
(PLANNING, ENVIRONMENT & DEVELOPMENT COMMITTEE)
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
21 JULY 2005

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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

(PLANNING, ENVIRONMENT & DEVELOPMENT COMMITTEE)

21 JULY 2005

Mayor and Councillors

PLANNING, ENVIRONMENT & DEVELOPMENT DEPARTMENT REPORTS

6 STAFF RESIGNATION - GENERAL MANAGER

Purpose:

To formally advise Council of the resignation of the General Manager, Mark Ferguson.

Description of Item:

As Councillors are aware, Mark Ferguson has submitted to me his resignation from the position of General Manager of Coffs Harbour City Council effective from the 31 August 2005 to take up the position of General Manager of Pittwater Council.

Mark Ferguson commenced with Coffs Harbour City Council in 1990, having been appointed to the position of Director of Finance and Administration and became General Manager in 1998.

During this period as General Manager, there has been substantial growth of the City and the Council. Mark Ferguson's leadership and management have contributed to Council successfully achieving its strategic direction and programs.

Recommendation:

- 1. That the General Manager's resignation be accepted with regret and he be wished every success in his new position of General Manager of Pittwater Council.**
- 2. That Council record its appreciation of Mark Ferguson's efforts and contribution during his period of employment with Coffs Harbour City Council.**

**Keith Rhoades AFSM
Mayor**

**PED18 DEVELOPMENT APPLICATION 1569/05 - TWO ADVERTISING SIGNS - LOT 1
DP1063045, NO. 2 MOONEE BEACH ROAD MOONEE BEACH**

Purpose:

This report describes Development Application (DA) 1569/05 for the erection of two advertising signs on the corner of the Pacific Highway and Moonee Beach Road, Moonee Beach. Conditional approval of the application is recommended.

Description of Item:

Development Consent 1708/04 for the shopping centre was issued by Council in December 2004. The centre is under construction, targeted for opening later this year.

The shopping centre application (1708/04) initially proposed 2 pylon signs for the development up to 18.5m in height. The shopping centre consent was issued approving of one 6 metre high pylon sign only, located off the collector road. It is relevant to list advertising signage controls that were agreed by Council to the shopping centre consent (1708/04), conditions 41, 42, 43 and 44:-

- 41. The title of Lot 1, DP1063045 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, DP1063045 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, DP1063045) adjacent to the Highway being removed prior to occupation of the shopping centre development.*

Implementation of the above conditions will allow only two pylon signs for the Highway frontage of the Moonee Business Zone. These requirements will rationalise existing adhoc and visually unsightly signage at this nodal entry to the Moonee Urban Release Area.

Two pylon signs are proposed for the Highway frontage of the Business Zone under the current application. One sign is 6 metres in height and is described as the Tavern sign. This pylon sign will comprise 4 signage panels and promote Coles, the Tavern and business uses on the "Tavern site". The second sign is 10 metres in height; will contain 9 signage panels and will promote Coles and business uses in the new shopping centre. A site plan and elevation of the signs accompanies this report.

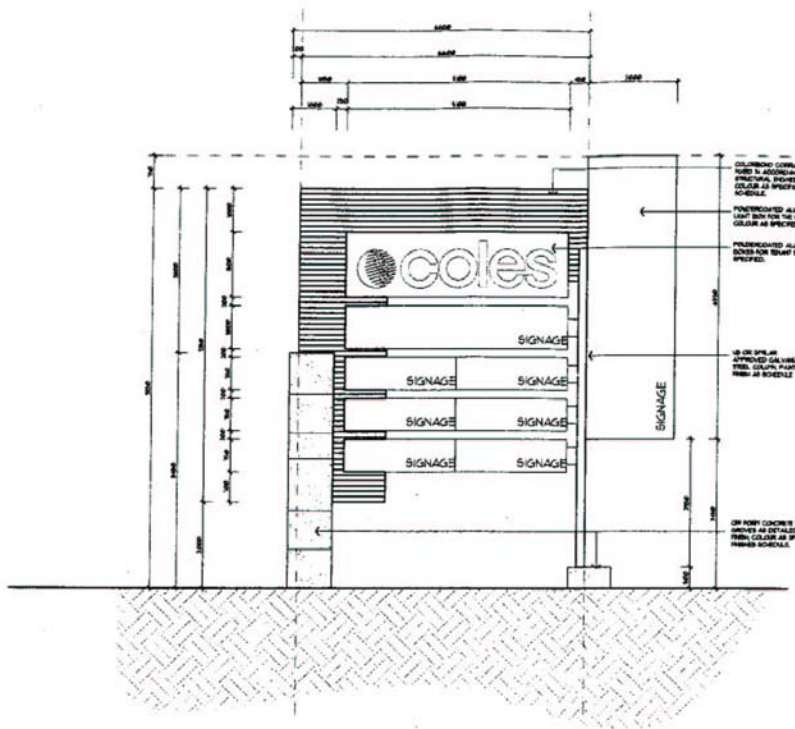
The shopping centre Lot (Lot 2) and the Tavern Lot (Lot 1) have a combined frontage to the Highway of approximately 300 metres.

The shopping centre building is approximately 10 metres in height.

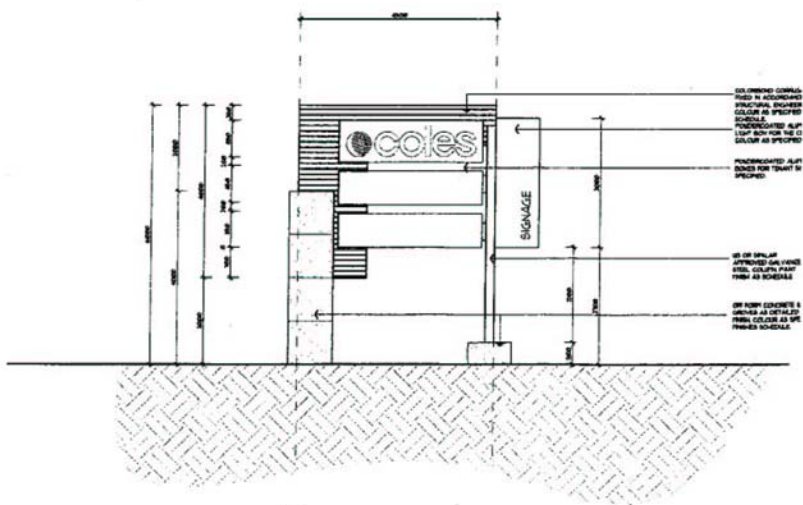
**Ped18 Development Application 1569/05 - Two Advertising Signs - Lot 1 Dp1063045, No. 2
Moonee Beach Road Moonee Beach ...(Cont'd)**

The pylon signs, whilst to be positioned adjacent to the Highway, are located clear of the 20 metre 7B Environmental Protection Zone Scenic Buffer Zone. That is, the pylon signs observe a 20 metre setback from the Highway boundary, and are located considerably further from the physical roadway due to the expansive width of the Highway road reserve along the frontage of the Business zone.

The application was advertised and notified in accordance with Council's Notification DCP and 4 submissions were received.

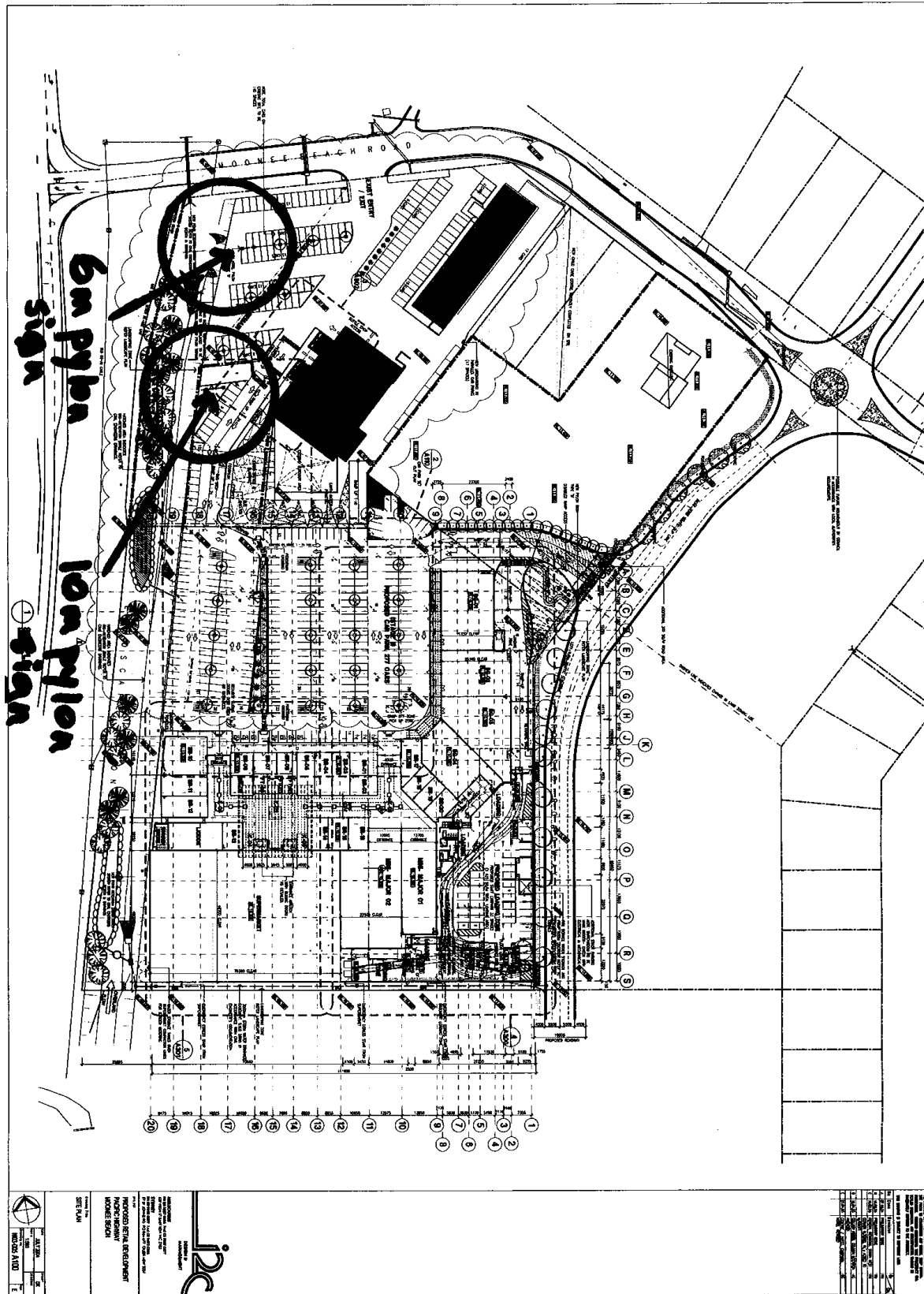


107 PYLON SIGN SIDE ELEVATION
SCALE: 1/500 TO 1/200



109 PYLON SIGN SIDE ELEVATION
SCALE: 1/500 TO 1/200

Ped18 Development Application 1569/05 - Two Advertising Signs - Lot 1 Dp1063045, No. 2
 Moonee Beach Road Moonee Beach ...(Cont'd)



**Ped18 Development Application 1569/05 - Two Advertising Signs - Lot 1 Dp1063045, No. 2
Moonee Beach Road Moonee Beach ...(Cont'd)**

Sustainability Assessment:

- **Environment**

The proposed signage will be located on a cleared part of the site. The signage arrangement will replace existing adhoc and unsightly signage; some of which is located within the Highway environmental protection zone. Illuminated signage will consume power and illumination may impact on native nocturnal fauna.

- **Social**

No adverse social impacts are likely from the proposed signage, however, representations have been received from some residents in the community that object to the signage on the grounds that such development is not complementary to the Moonee Village character.

- **Economic**

Signage will promote the district retail and commercial precinct.

Broader Economic Implications

Nil

Management Plan Implications

Nil

Consultation:

The application was advertised and notified in accordance with Council's Notification DCP. In response 4 submissions were received including a submission from the Moonee Action Group. A representative of this Group has requested the opportunity to address Council prior to determination of the application.

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.

**Ped18 Development Application 1569/05 - Two Advertising Signs - Lot 1 Dp1063045, No. 2
Moonee Beach Road Moonee Beach ...(Cont'd)**

Relevant Statutory Instruments

- North Coast Regional Environmental Plan (REP)
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- SEPP No. 64 - Advertising and Signage
- SEPP No. 71 - Coastal Protection
- Moonee DCP
- Signs DCP
- Notification DCP

Issues:

The proposed pylon signs require the consent of Council. Council's Signs DCP limits the height of pylon signs to 6 metres. The advertisement on the pylon must also be 2.7 metres above ground level.

The "Tavern sign" is 6 metres in height and the advertising space on this sign is 2.7 metres above ground level. This sign has 2 x pylons to support the advertising panels and the advertising panel has an area of 13.5m².

The "shopping centre" sign is 10 metres in height and the advertising space on this sign is 2.7 metres above ground level. This sign has 2 x pylons to support the advertising panels and the advertising panel has an area of 40.5 m².

Both pylon signs are designed to complement the new centre, the advertising panels encased in colour bond corrugated framing supported by metal/concrete pylons. Both signs are clear of the Highway 7B Environmental Protection zone, and are positioned 20 metres minimum from the Moonee Beach Road boundary.

Consent conditions for the shopping centre limit the number of signs on the Highway frontage of the business zoned sites to two. These sites have a combined frontage of some 300 metres.

Four submissions received following advertising of the application are supplied separately to this report to Councillor's and Executive Management Team.

A summary of issues raised in four submissions received covering the application includes:

- signage is excessive, invasive and aesthetically unpleasant
- signage should comply with Council's controls
- signage disregards environmental significance and sensitivity of the location
- signage may impact on seasonal migrating and resident nocturnal birds and animals.
- signage may cause light spillage off site
- signage illumination should be restricted to trading hours
- existing offensive signs should be removed

Ped18 Development Application 1569/05 - Two Advertising Signs - Lot 1 Dp1063045, No. 2 Moonee Beach Road Moonee Beach ...(Cont'd)

In Comment

- It is not unusual and it is considered justifiable for Council to support pylon signs taller than the DCP prescribed height for major developments (e.g. South Coffs Highway Service Centre and Boambee Shopping Centre)
- Proposed signage is conducive to the commercial developments on the site
- Existing signs on the site will be replaced by the proposed pylon signs
- It is reasonable to time clock the 10 metre high pylon sign to illuminate only within the centre's approved retail hours (Monday - Sunday 7.00am - 9.30pm).

Recommendation:

- **That Development Application 1569/05 for the erection of two (2) pylon signs on Lot 1 DP1063045, No. 2 Moonee Beach Road Moonee Beach be approved subject to conditions as appended to this report (Appendix B).**
- **That persons who made submissions on the application be advised of Council's determination.**

Attachments:

APPENDIX A

Section 79 Evaluation

Development Application 1569/05

- a) the provision of,
(i) any environmental planning instrument and

- **North Coast Regional Environmental Plan**

Proposed signage is consistent with the principles of this Plan.

- **State Environmental Planning Policy No. 64 "Advertising Signage"**

The proposed business signs satisfy the assessment criteria of this Policy in relation to character of the area, special areas, views and vistas, streetscape setting and landscape, site and building, illumination and safety. The signs are situated in the business zone of the Moonee Urban Release Area, clear of the Highway Environmental Protection Zone. The signs do not exceed the height of the new shopping centre (under construction) and are clear of view lines and existing and future landscape provisions.

- **State Environmental Planning Policy No. 71 "Coastal Protection"**

The development satisfies the relevant objectives and matters for consideration in this Policy. The signage, to 10 metres in height is not visible from the coastline, will not impact on coastal process and is unlikely to impact on the natural environment. Illumination times for the taller sign are to be restricted to retail hours.

- **Moonee DCP**

The proposal is consistent with the controls of this Plan

- **Signs DCP**

The proposal does not conform with the prescriptive provisions of the Signs DCP in that one of the signs is 10 metres in height (in lieu of 6 metres). The applicant has justified variation to this control due to the nature and scale of developments being advertised (the new shopping centre); the location of the signs in relation to the Highway and Moonee Beach Road (greater than 20 metres to both boundaries), negligible amenity impacts on traffic and pedestrian activity and signage rationalisation.

The proposed signage reasonably satisfies the objectives of this Plan

- **Notification DCP**

The development application was notified and advertised in accordance with the provisions of the Notification DCP. Four submissions were received and matters raised are discussed in the report to Council.

- **Coffs Harbour City Local Environmental Plan 2000**

The pylon signs are to be erected in the 3F Business Neighbourhood Zone. Such development is permissible with consent.

(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

Draft Amendment No. 24 proposes to rezone the Business Zone from 3F Neighbourhood to 3C Town Centre. Signage is permissible under this amendment with consent.

(iii) any Development Control Plan (DCP)

- refer to earlier comments

(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 EP&A Regulation 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 recognize good aesthetic qualities". Having regard to the zoning of the site, the nature of the development on the site and the proposed design, height, scale and setbacks of the signs this objective is satisfied.

(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 is complementary to the built environment. The potential for illuminated signage to impact on nocturnal fauna has been raised and in response the taller (10 metre) sign will be restricted for times of illumination. No adverse social or economic impacts are likely from the development. The signs are clear of the Highway environmental protection zone.

c). The suitability of the site for the development

The signs are suitably positioned on the site, are in scale with the commercial development and are ancillary to the commercial uses. The proposed signage is deemed suitable for the site.

d). Any submissions made in accordance with this Act or the regulations

Following advertising and notification of the application, four submissions were received. Matters raised in the submission are canvassed in the report.

e). The public interest

The public interest is not disadvantaged by the application, the signage is ancillary to approved commercial developments.

APPENDIX B

Development Application 1569/05

Schedule of Conditions

1. Existing pylon signage, billboard signage and other free standing signage (with the exception of the pylon sign positioned on Lot 1, DP1063045 adjacent to Moonee Beach Road) being removed prior to issue of the occupation certificate of the shopping centre development.

2. The title of Lot 1, DP1063045 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.

This restriction being placed on the title prior to the issue of an Occupation Certificate for the shopping centre development.

3. The title of Lot 2, DP1063045 being encumbered by a restriction to prohibit free standing pylon signage adjacent to the Pacific Highway boundary (but not within the 7B Environment Protection Scenic Buffer Zone) with Council approval to alter or extinguish this restriction.

This restriction being placed on the title prior to the issue of an Occupation Certificate for the shopping centre development.

4. The 10 metre pylon sign being fitted with a time switch to limit illumination of this sign to between the hours of 7.00am to 9.30pm Monday - Sunday. This sign shall not be illuminated outside of these times.

5. 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 been issued and Council has been notified of the Principal Certifying Authority.

6. 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 unauthorized entry to the site is prohibited. The signage must be erected prior to commencement of work.

PED19 DEVELOPMENT APPLICATION NO. 482/05 - CONVERT EXISTING MOTEL TO A DWELLING AND CHANGE OF USE TO A GROUP HOME - LOT 11, DP 1009914, 1579 PACIFIC HIGHWAY MOONEE BEACH

Purpose:

The purpose of this report is to advise Council on an application to convert an existing building which has previously been used as a motel to a dwelling, and to change the use of the dwelling to a permanent group home (as defined in *State Environmental Planning Policy No. 9 – Group Homes*). The site is located at 1579 Pacific Highway Moonee Beach. The report recommends conditional approval of the application.

Description of Item:

Existing Site and Development

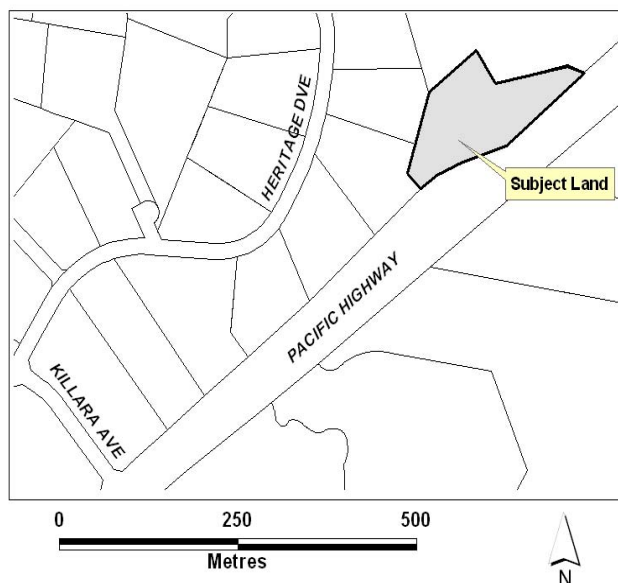
1579 Pacific Highway Moonee Beach is an irregularly shaped 1.854 hectare allotment. It includes approximately 276 metres frontage to the Pacific Highway. The land slopes upward from the highway to a knoll where a single storey concrete and brick building with colourbond roof currently exists. The building was constructed approximately 30 years ago and used as a motel until recently.

The issue of existing use rights for a motel has been raised, however this point is irrelevant in the context of this development application, as the thrust of the proposal is to convert the existing building to a dwelling and subsequent group home.

An existing car parking area is located in front of the building, while a swimming pool and barbeque shelter are also positioned in front of the building. A metal shed is located behind and to the south of the main building.

Access to the site is via a sealed driveway from the highway frontage. The driveway also serves the adjoining lot to the north, where an unoccupied dwelling exists.

Figure 1. Locality Plan



Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Proposed Development

The development proposed is summarised as follows:

- To convert an existing building (originally approved as a motel) to a dwelling; and
- To use that dwelling as a permanent group home.

According to *State Environmental Planning Policy No. 9 – Group Homes*, a **dwelling** means “a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used as a separate domicile.”

A **dwelling house** means “a building containing 1 but not more than 1 dwelling.”

A **group home** “means a dwelling that is a permanent group home or a transitional group home.”

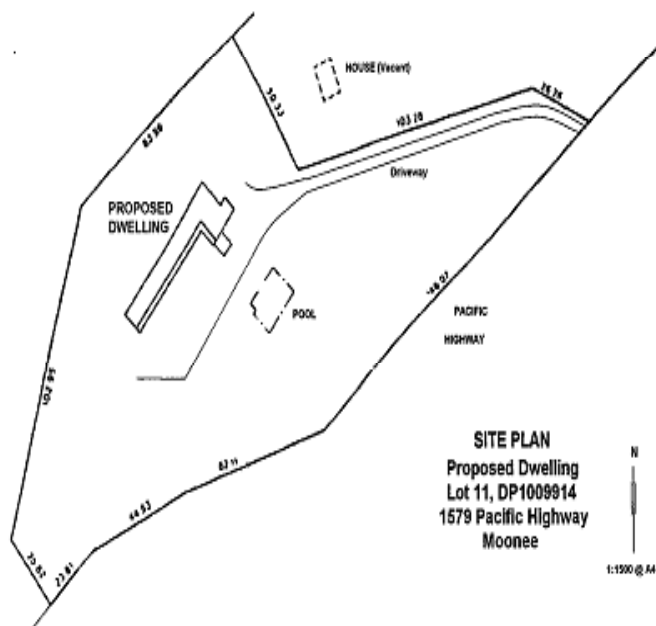
While a **permanent group home** “means a dwelling:

- (a) used to provide a household environment for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which [State Environmental Planning Policy \(Seniors Living\) 2004](#) applies or a transitional group home.”

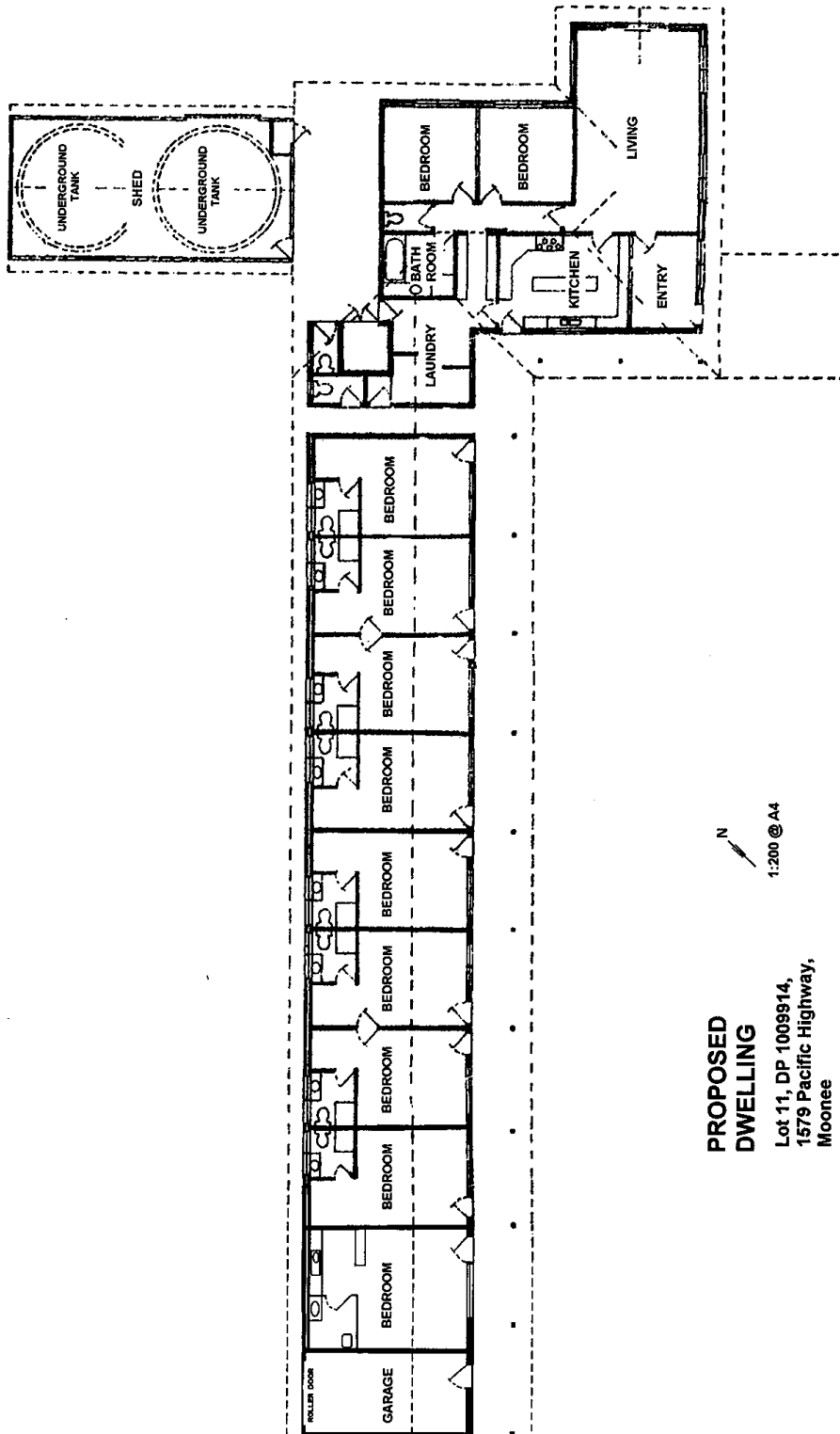
The proposed permanent group home consists of nine bedrooms (formerly used as motel suites) and a two-bedroom caretakers residence. See Figure 3 – building layout.

Figure 2. Site Plan



Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Figure 3. Building Layout



Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Therefore the group home is proposed to accommodate nine occupants (clients) and two site managers who will also act as carers for the clients. Three other staff members have been nominated including administration and cleaning staff, however these staff will not live on-site. Meals are proposed to be prepared off site and delivered to the facility on a fortnightly basis.

Occupants of the Permanent Group Home

The proposed *permanent group home* is to provide respite services to Aboriginal Elders and their carers. In response to community concern and a Council request for further information, the Yarrawarra Aboriginal Corporation have provided the following summary of the operation of the facility:

"The site will incorporate:

- 1. The provision of respite services to Aboriginal Elders and their carers to reduce the stress brought about from Elders being sent as far away as Tweed Heads and Newcastle for care accommodation;*
- 2. Provision of ongoing support/services (eg meals, and community aged care packages) to the residents at the Moonee facility;*
- 3. A safe and secure environment exclusive to Aboriginal Elders;*
- 4. The site caters to people living with a disability. The dwelling is slab on ground with easy access to bathroom including grab rails to WC and shower. The surrounding pathways are all level with easy access to dining room (when required). All doorways are wheel chair accessible;*
- 5. Individualized care plans depending on level of need;*
- 6. The use of alcohol is prohibited on this site;*
- 7. A partnership with Nambucca Valley Community Services Aboriginal Community Aged Care Program for Elders to receive Hostel and Nursing Home care to the door on an individual basis;*
- 8. A base from which Aboriginal students can be trained in the delivery of aged care services in partnership with the North Coast Institute of TAFE. The training and education program will ensure adequate and appropriate staffing of the Moonee facility into the future;*
- 9. On site care (respite) will be provided through Nambucca Valley Community Services Aboriginal Community Aged Care Program (a number of Aboriginal Elders are already receiving this style of care in community but are not living in accommodation appropriate for the needs of carers);*
- 10. Working closely with Aboriginal Hostels for the provision of financial assistance to cover the cost of:*
 - Domestic Staff (1.5 workers)*
 - Cleaner / maintenance staff (2 workers)*
 - Administrations staff (1 worker)*
 - Manager (1)*

The overall management of the facility will be under the auspices of Yarrawarra Aboriginal Corporation.

The Moonee site was selected because of its geographical position (being a central location between Nambucca Heads and Grafton). Its natural surroundings, close to the bush with animals running freely is of high importance to Aboriginal Elders living out the remainder of their retirement years peacefully and in harmony with the neighbouring community.

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Please Note:

In relation to community concerns, the ages of the dwelling occupants will range from 45 to 80. In Aboriginal communities people begin to age much younger than in mainstream communities, hence the need to provide adequate care from 45 onwards.

The name Group Home may have given the neighbours the wrong impression, this is not a home for homeless, rather it is for the dedicated care of elders in need of peace and quiet away from younger family members ie respite.

I am aware that concerns arise from previous experiences of the community, but these should not be assumed to have any relevance to a respite centre of this kind. Alcohol is prohibited on the site, noise is unwanted, supervisors / carers will always be on the site."

Community Need for the Facility

An important factor in determining the merit of a facility such as this is to establish whether or not there is a genuine community need for this kind of a facility.

Yarrowarra have stated that aged care for older aboriginal persons is a service that requires specialised skills and considerations that are not normally provided for by general aged care services. Presently the only locations that provide that care on the north/mid-north coast of NSW are Tweed Heads and Newcastle. Therefore locationally, there has been an identified need for such a facility in this region.

Yarrowarra have indicated that this particular location is ideal as it provides:

- A facility centrally located between Nambucca Heads and Grafton (this is the region containing the client base that the facility is proposed to serve);
- A natural bush setting in a peaceful environment;
- Convenient access via the Pacific Highway to both Grafton and Nambucca Heads as well as Coffs Harbour.
- Essential services such as pharmacies, and other medical services are easily accessible at either Moonee Beach, Woolgoolga or Coffs Harbour – again the facility is centrally located to these services.

Given the above, it is considered that there is a genuine community need for an Aboriginal Aged Care facility in the Coffs Harbour region.

Administration and Provision of Services

Further information was sought from the Yarrowarra Aboriginal Corporation. The following questions were asked, with responses following:

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Question: Does the Nambucca Valley Community Services Aboriginal Community Aged Care Program have the capacity to provide on-site care and if so how are they going to do this (do they have aged care accreditation)?

Response: The Nambucca Valley Community Services Aboriginal Community Aged Care Program are the registered carer providers for the Nambucca Area (of which Coffs Harbour is included). They are funded by the Federal Government and they are the only organisation able to provide this kind of specific care package (for Aboriginal Elders) in this region.

Question: What is the level and type of support proposed to be provided by the Nambucca Valley Community Services Aboriginal Community Aged Care Program?

Response: They will provide the two full-time on site carers for the facility.

As the Nambucca Valley Community Services Aboriginal Community Aged Care Program are the suppliers of the on-site carers for this proposed facility, they will be monitoring the success of this facility in order to consider a similar facility in the Nambucca Heads area.

Question: Who administers the facility?

Response: Yarrawarra have entered into a partnership with ETC where the administration for the facility will be undertaken off-site. This allows the on-site carers to concentrate on providing care and supervision.

Meals will be prepared off site and delivered on a fortnightly basis.

Visitors (relatives) to the site will be restricted to one day per week (likely to be a Sunday). Visitors will be brought to and from the site by minibus. Visiting periods will be restricted to two hour periods on the chosen day.

Sustainability Assessment:

- **Environment**

The development will not have any significant adverse impacts upon the environment.

Noise concerns affecting the site from the Pacific Highway (and proposed upgrading) have been addressed by the applicant through a traffic and noise assessment approved by the RTA. Noise from the proposed group home itself is not considered to be an issue.

The site is serviced by an existing on-site effluent disposal system, that has been demonstrated to be operating efficiently.

The development will not have adverse impact upon native flora or fauna.

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

• **Social**

Ten (11) submissions (including a petition containing 16 names) from surrounding residents have stated their dissatisfaction with the development, however, the grounds for objection are not considered severe enough to warrant refusal of the application from a Town Planning perspective. The primary areas of concern relate to:

- Impact on, and security of local residents (especially in the Heritage Park area);
- Disruption to "family values";
- Concern over infrastructure capabilities ie. water supply, effluent disposal, local road network;
- The facility is proposed in an isolated location;
- Impact on land values in the area; and
- Concern that the facility will not be managed efficiently.

A petition has also been received by Council containing 16 signatures. However it should be noted that the petition contains misleading information as the petition repeatedly refers to the development proposal as a "Hostel for the Homeless". The petition is therefore discarded from consideration in this matter based on the misleading information.

The various issues raised by those who lodged submissions will be further outlined later in this report.

• **Economic**

The application involves no significant economic issues. The applicant states that the facility will provide "a base from which Aboriginal students can be trained in the delivery of aged care services in partnership with the North Coast Institute of TAFE." This suggests that the proposal may result in longer term economic (and social) benefits for those students involved.

Broader Economic Implications

There are no broader economic implications associated with the development.

Management Plan Implications

There are no financial implications in relation to Council's Management Plan.

Consultation:

The application was notified and advertised in October 2004 with a total of 11 submissions received objecting to the development. The issues raised in submissions will be discussed in detail later in this report.

As mentioned earlier in this report, a petition has also been received by Council containing 16 signatures. However as the petition contains misleading information the petition has not been given serious consideration, i.e the matters raised are not relevant to the matter before Council.

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

The development application was referred to the Roads and Traffic Authority who initially responded with concerns relating to traffic safety and noise from the advent of the upgraded highway. A traffic and noise report was submitted which responded to the RTA concerns. The RTA have since agreed to the report and have provided Council with conditions of consent should the development proposal be supported.

The development application was referred to the NSW Rural Fire Service. The NSW RFS have issued a bushfire safety authority and provided Council with conditions of approval should the development proposal be approved.

Advice has also been received from the following Council Departments:

- City Services,
- Building,
- Environmental Services, and
- Community Services.

Statutory Requirements:

Section 79C of the Environmental Planning and Assessment Act 1979 sets out the matters to be considered in the determination of a development application. The consideration of matters is limited in so far as they must be of relevance to the development being considered. A report setting out consideration of the development in terms of section 79C is appended to this report (Appendix A).

With regard to Coffs Harbour City Local Environmental Plan (LEP) 2000, the site is zoned Rural 1B Living and the proposed land use is defined as a "Group Home". It is permissible in the zone, with Council consent.

State Environmental Planning Policy No. 9 - Group Homes

This SEPP is relevant to this development proposal, as outlined throughout the report. The proposal complies with the specifications for a group home contained within this SEPP.

Clause 7(2) of SEPP 9 states that Council shall not refuse its consent to the carrying out of development for any of the purposes referred to in sub clause (1) (this clause includes a permanent Group home containing more than five bedrooms) unless it has made an assessment of the community need for the Group home. With regard to this Clause of SEPP 9, an assessment of need has been undertaken in consultation with Council's Community Services Branch. It is in the opinion of staff that the need for this kind of facility has been established. Discussion on the community need for this Group home has been included earlier in the report. It is therefore apparent that according to Clause 7 of SEPP 9 Council is required to approve this application.

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

Issues:

Issues raised in Submissions::

The application was notified and advertised in October 2004 with a total of 11 submissions received objecting to the development. The 11 submissions received following advertising of the application are supplied separately to Councillor's and Executive Management Team. The issues raised in the submissions include the following:

- **Impact on, and security of local residents (especially in the Heritage Park area);**

Objectors have expressed concern that such a group home will impact on the security of local residents. This claim however is made on assumption only, no supporting information has been presented with this claim. The facility is focused toward the Pacific Highway (gaining access from, site and facilities face the highway) and is somewhat "separated" from the Heritage Park estate by topography and existing vegetation. The statements made by Yarrawarra indicate that the security of local residents would be unlikely to be adversely affected i.e. *the ages of the dwelling occupants will range from 45 to 80, ... this is not a home for homeless, rather it is for the dedicated care of elders in need of peace and quiet away from younger family members i.e. respite., alcohol is prohibited on the site, noise is unwanted, supervisors / carers will always be on the site.*"

Yarrawarra have also stated that visitors to the site i.e relatives would be taken to the site as one group by minibus on a designated day per week. Visiting would be only allowed for a two hour period on the designated day. Yarrawarra have stated that this requirement would be strictly adhered to.

It is therefore considered that this issue has been adequately addressed within the application.

- **Disruption to "family values";**

As above, this claim is made on assumption only, no supporting information has been presented with this claim. Also as above, the statements made by Yarrawarra regarding the operation of the facility indicate that there is unlikely to be any effect on "family values".

- **Concern over infrastructure capabilities i.e. water supply, effluent disposal, local road network;**

Water supply is via two large underground water storage tanks previously used to supply the motel. A bore license is also being sought for use around the grounds of the facility. It is considered that this situation is satisfactory.

The existing effluent disposal system has been assessed by Council's Environmental Services Branch and has been shown to be operating efficiently.

Ped19 Development Application No. 482/05 - Convert Existing Motel To A Dwelling And Change Of Use To A Group Home - Lot 11, Dp 1009914, 1579 Pacific Highway Moonee Beach ...(Cont'd)

The applicant has likened the development in terms of traffic impact to two dwelling houses. The local road network (the Pacific Highway) used to access the site is seen to be appropriate for the use subject to upgrading required by the RTA. The RTA have provided conditions of approval in this regard.

- **The facility is proposed in an inappropriate location i.e. isolated location, residential environment;**

According to Yarrawarra Aboriginal Corporation the location was chosen because of its geographical position – located centrally between support services at Woolgoolga and Coffs Harbour. Yarrawarra have also stated that the site's "*natural surroundings, close to the bush with animals running freely is of high importance to Aboriginal Elders living out the remainder of their retirement years peacefully and in harmony with the neighbouring community.*" Group Homes are permissible with Consent in the Rural Living 1B zone. Both the subject site and the Heritage Park Estate are contained within this zone. Local support services such as medical, retail and commercial services while located at a distance from this facility, are relatively easily accessible via the Pacific Highway.

With regard to State Environmental Planning Policy No. 9 – Group Homes, the aim of this Policy is to facilitate the establishment of "*permanent group homes in which socially disadvantaged persons may lead as normal a life as possible by living permanently in an ordinary residential household environment, instead of in an institutional environment.*" Yarrawarra's statement above indicates that this location is appropriate for Aboriginal Elders requiring relative peace in a natural setting (although it is acknowledged that peace and quiet will be impacted upon by the Pacific Highway).

- **Impact on land values in the area**

A number of submissions expressed concern that property values in the area will fall if the Group home is established. There is no evidence to support this assertion.

- **Concern that the facility will not be managed efficiently.**

The overall management of the proposed facility will be undertaken by Yarrawarra Aboriginal Corporation. Yarrawarra's statements (noted earlier in this report) regarding the operation of the facility are satisfactory in this regard.

Recommendation:

That Development Application No. 482/05 for a Change of Use from an Existing Motel to a Dwelling, and the Use of that Dwelling as a Permanent Group Home (for Socially Disadvantaged Aboriginal Elders) on Lot 11, DP 1009914, 1579 Pacific Highway, Moonee Beach be approved subject to standard and special conditions as appended to the report (Appendix B).

Attachments:

APPENDIX A

Section 79C Evaluation

Development Application No. 1483/03

(a) the provisions of:

(i) any environmental planning instrument, and

- **Environmental Planning and Assessment Act**

As mentioned earlier in this report, the development is permissible with consent. The application has been lodged in accordance with the requirements of the Act and the Regulations. No vegetation is proposed for removal, and it is considered that the group home will not have a significant effect on any threatened species, populations or ecological communities, or their habitats, in terms of section 5 of the Act.

- **North Coast Regional Plan 2000**

This Planning Instrument does not have any clauses of relevance to the development.

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

The site is included in the Rural 1B Living Zone under LEP 2000. The proposed use is defined as a 'Group Home' and is permissible with consent.

The development complies with the requirements of all relevant clauses of the LEP.

- **State Environmental Planning Policy No. 71 -**

The subject site is not located within a "sensitive coastal location" as defined by this policy, nor is it contained within the "coastal zone".

The development complies with the requirements of all relevant clauses of this policy.

- **State Environmental Planning Policy No. 55 - Remediation of Land**

Council has no record of contamination on this site. This SEPP is therefore not applicable to this proposal.

- **State Environmental Planning Policy No. 11 - Traffic Generating Developments**

This development proposal is not of a nature that requires this SEPP to be considered.

- **State Environmental Planning Policy No. 9 - Group Homes**

This SEPP is relevant to this development proposal, as outlined throughout the report. The proposal complies with the specifications for a group home contained within this SEPP.

Clause 7(2) of SEPP 9 states that Council shall not refuse its consent to the carrying out of development for any of the purposes referred to in sub clause (1) (this clause includes a permanent Group home containing more than five bedrooms) unless it has made an assessment of the community need for the Group home. With regard to this Clause of SEPP 9, an assessment of need has been undertaken in consultation with Council's Community Services Branch. It is in the opinion of staff that the need for this kind of facility has been established. Discussion on the community need for this Group home has been included earlier in the report. It is therefore apparent that according to Clause 7 of SEPP 9 Council is required to approve this application.

(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

No draft EPI's apply to the development site.

(iii) any development control plan, and

- **Off-Street Car Parking Development Control Plan (DCP)**

The car parking proposed for the site complies with Council requirements.

- **Notification DCP**

The application was advertised and notified for a two-week period in October 2004. Eleven (11) submissions were received either raising concerns or objecting to the development.

(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,

Clause 92 of the Environmental Planning and Assessment Regulation 2000 provides that the document titled "NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast" is to be considered in the determination of a development application. The policy does not apply to this area.

(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 is not likely to have a significant impact on the local built or natural environment. Upon notification of the proposal, 11 objections and a petition from surrounding residents were received indicating potential social impacts in the immediate area. However it is apparent that the objections are based on assumption and in the case of the petition, the assumptions are based on misinformation. These issues have been discussed previously in this report.

(c) the suitability of the site for the development,

Development of this type is permissible with consent in the Rural 1B Zone. The locational advantages of this site have been discussed previously in this report.

The site is therefore considered suitable for the proposed development.

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

The issues from submissions raising concern or objecting to the development have been discussed previously in this report.

(e) the public interest

The development is not considered contrary to the public interest.

APPENDIX B

Development Application No. 482/05 Schedule of Conditions

Access and Facilities for Disabled Persons

1. Access and facilities for disabled persons being provided in accordance with the Building Code of Australia provisions **prior to commencement of the approved use**. The developer's attention is drawn to the provisions of the Disability Discrimination Act 1992.

Fire Safety

2. **Prior to the commencement of the approved use**, an automatic fire detection and alarm system is to be installed in the building in accordance with the Services and Equipment Provisions of the Building Code of Australia.
3. **Prior to the commencement of the approved use**, written certification from an appropriately qualified consultant is to be submitted to Council to confirm that fire rating and sound insulation requirements for the building have been met.

Should these requirements not be met, you will need to ensure compliance through the submission of an application for a 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. Any Building works necessary to achieve compliance can only be performed following the issue of a relevant Construction Certificate.

Surrender of Motel Use Rights

4. Upon commencement of the land use approved herein, the previous land use entitlement for a motel is extinguished. Any proposed use of the premises for any purpose other than that approved in this Development Consent Permit will require further Development Approval.

Use of Premises

5. The site may be used only for the purposes approved by this Development Approval *i.e. Change of Use from an Existing Motel to a Dwelling, and the Use of that Dwelling as a Permanent Group Home (for Socially Disadvantaged Aboriginal Elders)*. Any variation to this approved land use will require further Development Approval to be obtained from Council.

Roads and Traffic Authority Requirements

6. The southbound right-turn into the development is to be banned by the installation of "No Right-Turn" signposting in accordance with current erection practices.
7. The driveway is to be upgraded generally in accordance with the RTA's "Typical Rural Access Standards". This is to be modified to include a centrally raised mountable median to discourage right-turns into and out of the driveway. The design should be amended to cater for vehicle turning paths.
8. An "All Traffic Left" regulatory sign is to be erected for exiting traffic from the driveway.

Roads & Traffic Authority Requirements cont.

9. The maintenance of the driveway and the signposting is to be the responsibility of the property owner.
10. An appropriate design is to be submitted to the RTA for approval of the road works and signposting.
11. The road works are to be undertaken by an RTA quality assured contractor.

NSW Rural Fire Service Requirements

12. The existing buildings shall be upgraded to comply with AS3959 – 1999 level 1 'Construction of Buildings in Bushfire prone Areas'.
13. The existing tank shall ensure that a minimum of 10,000 litres for the exclusive use for fire-fighting purposes is maintained at all times. A 65mm storz fitting and ball gate valve shall be installed in the tank.
14. A bushfire evacuation plan is to detail the following:
 - a) Under what circumstances will the complex be evacuated.
 - a) Where will all persons be evacuated to.
 - b) Roles and responsibilities of persons co-ordinating the evacuation.
 - c) Roles and responsibilities of persons remaining with the complex after the evacuation.
 - d) A procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.
15. The area between the building and the north and west boundary shall be maintained as an 'Inner Protection Area' as outlined within Planning for Bushfire Protection 2001.

**PED20 DEVELOPMENT APPLICATION 1276/05 - RESTAURANT LOT 65 SP73861- 65/22
ORLANDO STREET, COFFS HARBOUR (OCEAN GEM)**

Purpose:

This report describes Development Application 1276/05 being for the use of one of the two vacant ground floor commercial tenancies at the far southern end of the Ocean Gem building for the purposes of a 50 seat restaurant.

The report recommends that the Development Application be refused on the basis that the application does not comply with Council's DCP in respect of parking provision. In addition the report recommends that Council prepare a Section 94 Contributions Plan for parking in the jetty precinct incorporating the reconfiguration of on-street parking in appropriate streets.

Description of Item:

The three storey Ocean Gem building was approved in April 2003 and constructed in 2003/2004, with the Development Consent being for "*Multi Dwelling Complex (64 residential units), commercial use (190m²)*" and subject to the imposition of 33 conditions. Conditions relating to the commercial tenancy included the following:

"The 190m² commercial component of this development is subject to further development consent from Council".

The application before Council is to use the larger (110m²) ground floor commercial tenancy, located on the south-eastern corner of the ground floor Block 1, overlooking Marina Drive and the railway line as a restaurant. Four basement car spaces have been allocated to this tenancy by the Body Corporate.

It is proposed to be a breakfast, lunch and dinner restaurant, operating from 7:30am to 11:00 pm. The proposed number of staff will be a minimum of six to a maximum of 10. The maximum number of patrons at any one time would be 50 with both indoor and outdoor seating proposed on the seating plan.

On 24 June 2005 an appeal was lodged with the Land and Environment Court, on the basis of Council's non determination of the DA. However, as early as May 2005 the applicant was advised in writing that due to the inability of the application to meet Council's Off-Street Car Parking DCP, that Council officers would be unable to recommend to Council that the application be supported. The applicant was invited to withdraw his application pending investigations into the feasibility of the creation of a Section 94 Contributions Plan for Carparking in jetty precinct. However, no written response has been forthcoming from the applicant until notification of the Appeal was received involving a telephone 'call over' on the 8 August 2005. The application is therefore presented to Council for determination prior to the hearing in order that Council's solicitors can be fully instructed.

**Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street,
Coffs Harbour (Ocean Gem) ...(Cont'd)**

Sustainability Assessment:

- **Environment**

The proposal would have minimal impact on the natural environment, as the building exists at present and is vacant. However, a lack of available car parking spaces for customers to the site and inadequate unloading areas for the restaurant may exacerbate existing traffic congestion and hazards in the area. Cooking odors from the restaurant may potentially have a negative impact on the immediate environment and residents of the units.

- **Social**

The proposal would create employment for up to 10 staff and provide an additional eating facility for residents of the area as well as visitors to the Jetty Restaurant strip close by.

- **Economic**

Broader Economic Implications

The provision of a new restaurant would have a positive impact in the area, indicating the growth and vitality of the locality. Vacant commercial shops are generally a negative economic indicator for an area and the restaurant use would remove a potential negative perception. A new restaurant may also bring in more tourism dollars for the area.

Management Plan Implications

Approving the Development Application without adequate on-site parking may result in future Management Plan implications for Council, should there be increased community pressure for Council to provide public parking.

Consultation:

The Development Application was advertised and notified in accordance with Council's DCP and only one submission of "No Objection" was received to the proposal.

Other Council Department's Comments:

City Services:

Car parking should be provided in accordance with the Council's Off Street Car Parking Development Control Plan. However, it is noted that the provision of additional on-site parking is physically unachievable.

Building Services:

Inadequate information was lodged with the application to enable a full assessment. However, as a restaurant, the premises becomes a Class 6 building. On this basis toilet facilities appear to be inadequate for the seating shown on the plans and access to the unisex disabled facility will not meet compliance with AS1428. Changes would be required to the proposal to enable compliance with the Building Code of Australia and AS1428. No information has been provided with regard to disabled access provisions to the tenancy or associated seating areas.

Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street, Coffs Harbour (Ocean Gem) ...(Cont'd)

Should Development Consent be issued, there will likely be no impediment to the applicant obtaining a Liquor Licence and this may lead to conflicts between the restaurant and adjoining residential use.

Contributions Planner:

Water and sewer contributions will be required to be paid at a rate of 1.5 ET's per 100m² of restaurant floor area. Therefore the required contribution would be \$17,011.60

Trade Waste Officer:

A Trade Waste Approval was issued in September, 2003, however Condition 18 of that approval prohibited the use of garbage waste disposal units discharging to the sewer. The current proposal for the installation of an insinkerator would therefore be prohibited and the application would require amendment.

Environmental Health Officer:

Approval can be issued subject to a number of standard conditions, to be included in any Development Consent issued.

Waste Collection Officer:

For external collection, an area for three bins to be collected by a commercial contractor is required, with these bins able to be kept separate from the residential bins associated with the Ocean Gem complex. This may be difficult to achieve.

Statutory Requirements:

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
- Jetty DCP
- Signs DCP
- Notification DCP
- Off-Street Car Parking DCP

Coffs Harbour City Local Environmental Plan (LEP) 2000 states that the site is zoned Business 3G Mixed Use. A restaurant is a use permitted in this zone with Council consent.

The Aim of the zone is: *To provide for a mixed use development.*

Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street, Coffs Harbour (Ocean Gem) ...(Cont'd)

The objectives of the zone are:

to enable development that contributes to the retail or commercial or social or housing needs of the community. to enable development that is within the environmental capacity of the land and can be adequately serviced.

The Jetty Area DCP relates primarily to the development of new buildings in the area and in terms of commercial use, requires that the provisions of the Off Street Car Parking DCP be complied with.

The Off Street Car Parking DCP requires the following car parking be provided for restaurants:

Whichever is the greater of: 1 space per 6.6m2 GFA; or 1 space per 3 seats. This proposal would require 18 car spaces – a shortfall of 14 on site car spaces.

Issues:

Original Ocean Gem Development Application

In November 2002, prior to the Ocean Gem development being lodged with Council, the applicant was given general advice concerning the proposed building. With respect to potential uses the applicant was advised the Council considered there may be *“potential to use the High Street/Orlando Street corner for mixed use – eatery, coffee shop, retail”*.

In respect to car parking the applicant was advised to *“accommodate employee parking for business use in basement and explore options for indent on street parking for customers”*. The applicant was also told *“car parking numbers to comply with Council’s controls, but not exceed these so as to minimize podium’s footprint”*

When the original Development Application was lodged for the Ocean Gem development, the accompanying submission from the applicant stated:

The proposed commercial space is considered to be an extension of Council’s successful ‘alfresco dining’ strategy within the Jetty Strip. It is noted that most of the existing restaurants/cafes fronting the Jetty Strip do not provide any on site car parking. We therefore respectfully request Council’s consideration of this proposal in the same light.

The client’s experience in retail developments has shown that patrons of a restaurant/café are not likely to park within basement car parks when visiting the site.

This development with a formal kerb and gutter configuration will conceivably result in an additional 13 on street car parking spaces to serve those patrons driving to the site to use the commercial space in particular, and the surrounding area in general.

The applicant for the Ocean Gem development included in their submission that that they expected the commercial tenancies to include at least one restaurant. However, Council did not give any approval for a restaurant and discussions with the applicant considered a range of commercial/retail uses in addition to a restaurant. Council issued consent for the residential and commercial development imposing a condition requiring a separate consent to be obtained for the use of these commercial tenancies. Council based the parking requirements for the development on the two commercial tenancies being utilised for commercial use, not restaurant.

Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street, Coffs Harbour (Ocean Gem) ...(Cont'd)

The report to Council for the Ocean Gem development did not pre-empt the use of the commercial tenancies for restaurant, retail or other but did outline the provision of car parking in the basement for staff. At grade car parking was never considered to be feasible in this proposal, for aesthetic and safety reasons. Whilst the applicant for the Ocean Gem development had argued that the required provision of kerb and gutter to the street frontage constituted the provision of additional on-street parking spaces, the reality is that it is a standard Council requirement that any new development be responsible for providing and or replacing kerb and gutter. This in no way constitutes additional parking and is never included in the parking calculation. Kerb and gutter may reform the street edge, it does not increase parking provision.

Council's report in early 2003 for the Ocean Gem Development stated the following in relation to car parking:

"Adequate parking has been provided for the units. But the commercial floor area (now amended to 190m²) would require 6 car spaces to be provided (assuming a usable floor area of 142m² and one car space per 23m² of floor area, for retail use).

Two car spaces are proposed to be provided on site, and Council should require an additional four spaces to be provided on site, in the basement car park. These spaces would meet the demand by staff and manager/s of the shop/s.

Any other use that is proposed in the commercial area would require further consent from Council and a further assessment in terms of parking, should the uses or Council policy change".

The application was therefore amended to provide six car spaces in the basement car park for the commercial use, to meet the demand by the manager/s and staff of the shops.

Current proposal

The applicant for the current Restaurant DA has argued that the proximity of the site to high density residential living (eg 64 residential units at Ocean Gem, new Backpackers Hostel 50 metres away, large numbers of new units being constructed within close proximity) means that many patrons would walk to the restaurant, negating the need for a high number of parking spaces.

The second tenancy has a smaller floor area (77m²) and has two car spaces allocated to it in the basement. No Development Application has been lodged for this tenancy at this stage but negotiations are taking place to have it used for an art gallery.

Clearly there is a shortfall in the provision of on site car parking for the proposed restaurant use. The development requires a total of 18 parking spaces, 4 can be provided in the basement, leaving a shortfall of 14 spaces.

Servicing Provision For The Restaurant

There is no area able to be set aside for unloading of goods to the restaurant. The applicant has requested Council consider an indented parking bay in Orlando Street adjacent to the commercial properties, but this would be in a dangerous location close to the new round-a-bout and would not be a desirable location for servicing, a use that normally and appropriately happens at the rear of most restaurants and commercial premises.

Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street, Coffs Harbour (Ocean Gem) ...(Cont'd)

Options

Beyond the immediate issue of the current Development Application and its non-compliance with Council policy, there is a wider issue for Council consideration. Certainly a proportion of both residential and commercial occupants and users of the jetty precinct would be of the opinion that parking in the jetty area is at a premium. In addition there are other Development Applications and development proposals currently being considered that face the same problem of inadequate or no on-site parking. Therefore Council needs to consider a range of options to ensure an acceptable level of parking provision whilst continuing to encourage appropriate tourism and economic development.

In exploring potential options, Council should take into account the following:

- The proposed Waterside Masterplan and DCP will consider options for public parking. The DCP will also involve a review of parking requirements and calculations for individual uses, including commercial, tourist and residential. It was envisaged that the DCP would be developed in conjunction with a number of Section 94 Plans, including one relating to parking provision;
- City Services has advised that a new pedestrian crossing will be installed across the railway line, on the northern side of Marina Drive, as soon as the Railway Infrastructure Corporation have approved the plans. This, together with pedestrian refuges and the new round-a-bout will enhance pedestrian safety for those walking to the development. This will assist the longer term option of providing public parking on the eastern side of the railway line in conjunction with the Harbourside Masterplan.
- There is currently no Section 94 Contributions Plan for car parking within the jetty precinct. Recent investigations involving indicative valuations by Council's Manager Property and Commercial Services have suggested that should Council wish to create a contributions plan for the jetty, it would cost in the order of \$750,000 dollars to purchase an appropriately sized ie 1,000 square metre parcel of land. This would provide approximately 28 parking spaces. When the cost of constructing the car park is added to purchase cost it is estimated that the contribution rate, ie each car space would cost approximately \$30,000. In the case of the current application, the contribution required would be \$30,000 x 14 spaces = \$420,000. It is considered highly unlikely that a lessee of any business would have the ability to afford this level of contribution when they are not the owner of the property.
- Council has made previous policy decisions to subsidise the actual cost of parking provision as an encouragement to business. The Section 94 Contribution Plan for parking in the CBD has a contribution rate of \$1,720.34 per space. Taking into account the figures above, this rate obviously does not cover the full cost of providing the space. It should be noted that this Contribution Plan was adopted at a time when the City Centre was suffering economically and Council wished to encourage and assist development. This rate will be reviewed later this year in conjunction with the review of the City Centre DCP.
- In recent years Council also made a policy decision to encourage business and tourism, specifically for restaurants within the Sawtell Town Centre. Council's DCP for Off-Street Car Parking was amended in order that any restaurant application within the Sawtell Town Centre was required only to provide parking at the same rate as a shop or office. This reduced the parking provision required for restaurants and meant that most DAs for restaurants did not require additional parking spaces.

Ped20 Development Application 1276/05 - Restaurant Lot 65 Sp73861- 65/22 Orlando Street, Coffs Harbour (Ocean Gem) ...(Cont'd)

Proposal

It is considered that the application before Council should be refused on the basis of its non-compliance with Council's DCP for Off-Street Car Parking. However, in an effort to determine an equitable solution for the current parking issues in the jetty precinct, it is also recommended that a Section 94 Contribution Plan be developed for the area. However, on the basis that the provision of parking based on land purchase by Council would make the cost of the spaces potentially unaffordable, it is considered appropriate that the Contributions Plan assess the reconfiguration of roads and road reserves in the locality to provide additional space.

In this respect, Council's Design Branch have explored several options for providing car parking on the streets in the area -

- Option 1 - reconfiguring existing parallel parking areas to angle parking. This option is unlikely to result in any significant gains in on street parking.
- Option 2 - reconstruct streets without kerb and gutter with indented angle parking, for example, Edgar and Nile Streets. This may provide up to 68 additional car spaces.
- Option 3 - a Crown Land parcel in Mildura Street which is part of the England's Park reserve. Approximately 30-40 spaces could be constructed as an off street car park if the Plan of Management allows.

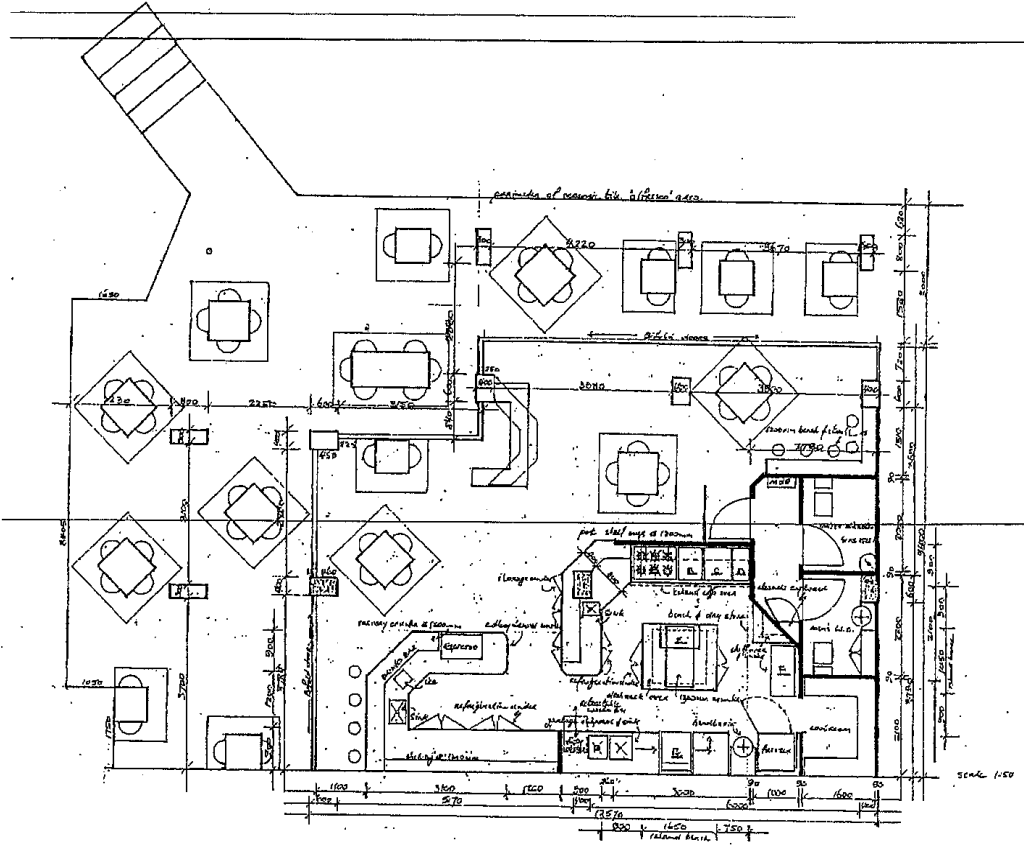
It should be noted that these are only preliminary considerations. It is proposed that a multi-disciplinary team be involved in investigating all potential options with the intention of preparing a Section 94 Contribution Plan, where the contribution rate would reflect the cost of the necessary road works. The benefit of this is that there would be no land purchase cost involved for either Council or the developer.

Recommendation:

1. **That Development Application 1276/05 being for the use of one of the two vacant ground floor commercial tenancies at the far southern end of the Ocean Gem building for the purposes of a 50 seat restaurant be refused on the following grounds:**
 - **The proposed 50 seat restaurant does not comply with Council's DCP for Off-Street Car Parking in that it cannot provide the required 18 parking spaces.**
 - **The inadequate car parking provision proposed would exacerbate existing parking and congestion problems in the jetty precinct**
 - **Inadequate servicing facilities for the loading/unloading of goods have been proposed for the proposed restaurant use.**
- 2 **That a multi-disciplinary team proceed to prepare a Section 94 Contribution Plan for the provision of parking within the jetty precinct, such plan being based on the reconfiguration of appropriate roads and road reserves in the locality to provide the additional spaces.**

Attachments:

Appendix A



PED22 PROPOSED TRIAL DOG LEASH FREE AREA - POLICY DEVELOPMENT AND ENFORCEMENT

Purpose:

To consider the merits of expanding Council's Dog Leash Free Areas within the City from six to seven.

The report recommends that Council establish a Dog Leash Free Area for a trial period on Park Beach South being that part of the beach commencing from the northern beach walkway access point approximately 30 metres south of Coffs Creek and extending south to the breakwater.

Description of Item:

Coffs Harbour City Council currently has six Dog Leash Free Areas within our area of control. These are located at Thompson's Road Reserve Coffs Harbour, Boambee Beach, Emerald Beach North of Fiddamans Creek, Hearn's Lake Beach, Woolgoolga Back Beach, Darkum Beach and Pipe Clay Beach Arrawarra.

These areas to date have been working well with the odd complaint coming in regarding irresponsible owners not controlling their dogs well enough. These complaints are dealt with on their merits on an individual basis.

The catalyst for this report has been concerns raised by users of the Boambee Beach leash free area in that this particular area is also shared by 4wd vehicles with some drivers in the past showing little regard for any dogs which may be in the area at the time.

Over the past 12 months a number of reports have come into Council regarding near misses with dogs with at least two reports of dogs being hit by 4wd vehicles and killed. Patrols of the area by Rangers has had little affect in controlling the habits of drivers on the beach when Rangers are not in the area observing.

In an effort to provide a safer environment for persons wanting to exercise their dog off leash within a reasonable distance of Coffs Harbour's Central areas a further site has been investigated and has been identified as a potential site for the establishment of a seventh leash free area for Coffs Harbour.

The location is the beach area at Park Beach South being an area starting at a point from the beach access approximately 30 metres south of Coffs Creek and extending to the north breakwater on the southern end of the beach. (See attachment) At the present time this beach allows access to dogs whilst on leads only. The current situation north of Coffs Creek is an area prohibited to dogs.

Sustainability Assessment:

- **Environment**

Environmentally there would be very little in the way of extra impact on the area. From Council's investigations dog owners who avoid using Boambee Beach and who wish to walk their dogs on a beach choose this beach, but are at this time forced to keep their dogs on a lead. The laws in regard to removal of dog faeces would equally apply to this area as in any other location.

Ped22 Proposed Trial Dog Leash Free Area - Policy Development And Enforcement ...(Cont'd)

- **Social**

The social impact would be minimal either way, this part of the beach is not heavily used by the general public for sun baking or swimming. The main users appear to be surfboard riders and people who like to walk the beachfront areas. It should be noted that the creek area has been excluded as part of the proposed leash free area. The reason being is the extensive use of this area as a safe swimming spot for parents with young children. Having unleashed dogs within this area is unacceptable and may pose a risk to children and others.

- **Economic**

Broader Economic Implications

Regulatory signs would need to be put in place which will clearly outline the rules of the leash free area and clearly delineate the boundaries. The cost of the signs would be within budget constraints for 05/06

Management Plan Implications

The 05/06 Management Plan has set aside \$15,000 for the Construction and Maintenance of Dog Leash Free areas. An estimated cost of approximately \$2,000 would cover the cost of signage, dog waste litterbins and "doggie doo" bag dispensers for the area.

Consultation:

Comment has been sought from the Harbourside Project Team, who have indicated support for the Leash Free Area and felt it would not impact on any current planning for the area.

Comment was also sought from Council's City Business Unit and in particular City Parks. Their comment was that they supported a trial period for a dog leash free area, provided the trial period was for at least a six month which covered the Christmas and New Year Holiday. A suggestion to place time restrictions on the Leash Free area was also recommended, . I.e allowing dog owners to walk their dogs leash free only of an early morning and late afternoon. City Parks felt that the beach area during the day may be utilised by too many people to allow dogs unleashed into the area.

Prior to a final decision being made on the site, a period of time would be made available for comment from the public and other interested parties.

Related Policy and / or Precedents:

- In August 2000 Council adopted its Companion Animal Management Plan which initially set up the current leash free areas within Coffs Harbour.

Ped22 Proposed Trial Dog Leash Free Area - Policy Development And Enforcement
...(Cont'd)

Statutory Requirements:

The Companion Animals Act 1998 states:

13 Responsibilities while dog in a public place:

6) A local authority can by order declare a public place to be an off-leash area. Such a declaration can be limited so as to apply during a particular period or periods of the day or to different periods of different days. However, there must at all times be at least one public place in the area of a local authority that is an off-leash area.

Issues:

The direct impact on the area and other users at this time is difficult to determine. The test will come during the Christmas Holiday period when the greatest number of people will be using the area. It is for this reason that a 6 months trial period including the Christmas break would seem like a reasonable test before committing to a permanent decision.

The area itself is seen as an appropriate location. It is bounded on three sides with natural boundaries to keep dogs contained within the area. To the south is the breakwater wall, to the east is the water and to west fairly dense bush. The northern section which leads to Coffs Creek would need to be appropriately sign posted advising of the boundary.

A period of high profile patrols by Council's Rangers during the initial period would ensure the area was correctly used by dog owners.

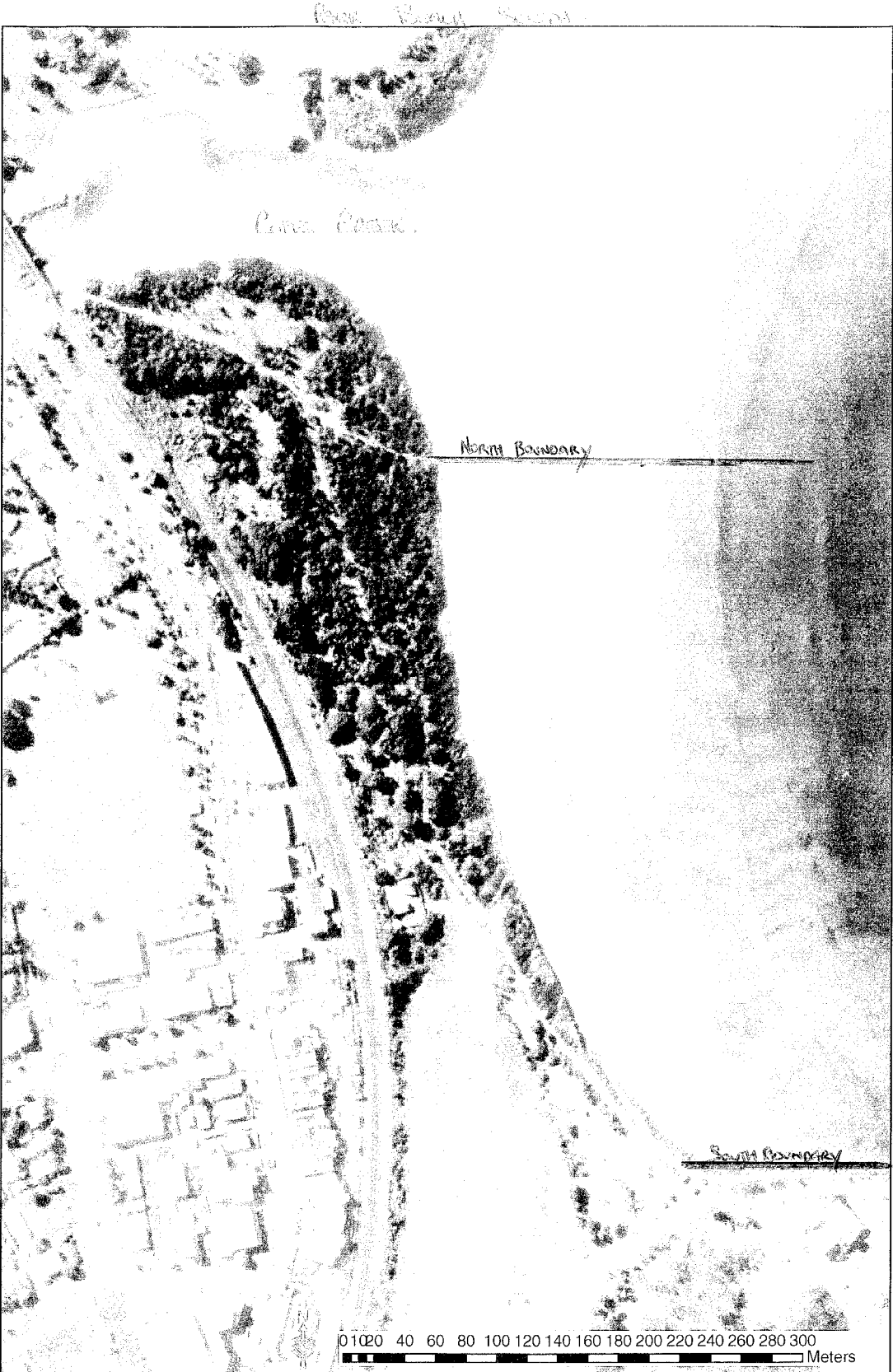
Implementation Date / Priority:

Implementation would be within 30 days giving time for sign erection etc.

Recommendation:

1. Council resolve to establish a Dog Leash Free Area for a trial period on Park Beach South being that part of the beach commencing from the northern beach walkway access point approximately 30 metres south of Coffs Creek and extending south to the breakwater.
2. The trial be for a period of six months commencing on a date which will see the period include the Christmas and New Year holiday period for 2005/06, and commence not later than 1st September 2005.
3. Upon completion of the trial period the proposal be placed on public exhibition for 30 days to ascertain community reaction to the trial; following this the matter be reported back to Council.

Attachment: Location of Trial - North to South Boundary



B23 RECREATION AND TOURISM OPPORTUNITIES AT JETTY OVAL

Purpose:

Report on possible future uses of Jetty Oval.

Description of Item:

Last October Council considered a report in relation to the possible relocation of the Aquajet and a limited number of animals from the Coffs Harbour Zoo to land adjacent to the Pet Porpoise Pool.

For a variety of reasons, neither of these proposals proceeded. However, both the Coffs Harbour Zoo and Pet Porpoise Pool have continued to show an interest in relocation/expansion onto the Jetty Oval. Both have recently made formal presentations to the Mayor and Executive Team outlining their future plans for the area. Copies of the written submissions are available in the Councillors' Room. The Pet Porpoise Pool plan is for a very modern tourist attraction that would combine interactive animal displays with an education/research facility and water based theme park. The Coffs Harbour Zoo proposal was more or less a Zoo and the re-erection of the Aquajet and associated games and activities. There would also be an education component and animal hospital. Some of the buildings/enclosures from the existing Zoo at Moonee would be relocated.

Of course neither development can proceed until a number of things happen and may never proceed in the form put forward in the presentations.

At this stage the proponents are looking for guidance as to whether their proposals are worth pursuing. At the Council meeting in October, discussion on the matter indicated a leaning towards a modern integrated tourist facility. Therefore from the information provided, the Pet Porpoise Pool should be encouraged to pursue their proposal and the Coffs Harbour Zoo encouraged to investigate other alternate sites for the re-establishment of the Aquajet and Zoo.

Sustainability Assessment:

A sustainability assessment is not appropriate at this time as Council is only being requested to indicate which of two proposals maybe worth further investigation. No financial commitment from Council is involved at this time.

Consultation:

Both the Pet Porpoise Pool and Coffs Harbour Zoo have been given equal opportunity to put forward their proposals, both in person and in writing.

Council's Manager of Coffs Coast Marketing supports the thrust of the report and concurs with the recommendation.

Related Policy and / or Precedents:

Council is often requested to give an indication of their support for various proposals prior to the commitment of resources and funds. As always, no guarantees can be given.

B23 Recreation And Tourism Opportunities At Jetty Oval ...(Cont'd)

Issues:

There are many issues to be resolved before either proposal could proceed, some of which include:

1. Amendment of the Plan of Management (the Jetty Oval is part of the State Park).
2. Department of Lands approval.
3. Lease arrangement suitable to both parties.
4. Relocation of Cricket.
5. Possible effect on nearby residences.
6. Formal Development Application process.
7. Location of Regional Skateboard Facility.
8. Traffic and Parking.

Again the purpose of this report is not to address and resolve all these issues. They are mentioned to indicate the complexity of the matter, and why the proponents are looking for some guidance from Council prior to pursuing the matter.

In the short term, the Pet Porpoise Pool have also previously approached Council about the possibility of leasing an area of land immediately adjacent to the complex for storage and possible relocation of some animals. This is not a problem and will not interfere with the existing or long term use of the whole site. A separate report will be prepared on this Lease (if it proceeds) for Council's consideration. The Department of Lands have agreed in principle to this occupation.

Implementation Date / Priority:

The parties will be advised of Council's decision following the meeting.

Recommendation:

1. **That Council advise the Pet Porpoise Pool that the expansion of their facility, as put forward in their proposal, onto the adjoining Jetty Oval would, subject to the normal approval processes and consultation, be the type of integrated tourist facility that Council would encourage.**
2. **That Council thank the Coffs Harbour Zoo for their proposal and encourage and assist them to investigate other suitable alternate sites for the re-establishment of the Aquajet and Zoo.**

Gina Vereker
Director of Planning, Environment and Development