



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

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(PLANNING, ENVIRONMENT & DEVELOPMENT COMMITTEE)

20 OCTOBER 2005

Mayor and Councillors

PLANNING, ENVIRONMENT & DEVELOPMENT DEPARTMENT REPORTS

PED26 DEVELOPMENT APPLICATION 11/06 - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF NEW DEVELOPMENT COMPRISING 18 RESIDENTIAL UNITS AND FIVE RETAIL SHOPS - LOTS 7 AND 8 DP857331, 59-67 FIRST AVENUE, SAWTELL

Purpose:

The application proposes demolition of all existing buildings on the site and the erection of a part two-storey and part three-storey development comprising 18 residential units of varying sizes and five retail shops, fronting First Avenue. The report recommends approval of the development subject to conditions.



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Description of Item:

Number 59-67 First Avenue, Sawtell is developed with older style commercial buildings of the 1950s and 1960s era, currently occupied by a Chinese restaurant, a hardware store, an upholsterer and first floor residential unit. The existing buildings (including outbuildings) occupy some 30-40% of the site.

It is proposed to demolish the existing buildings and redevelop the site as follows:

- Construction of a two-storey and three-storey mixed use retail and residential building
- Car parking for 43 vehicles, including loading/unloading bay and garbage storage area
- Ancillary excavation, landscaping and stormwater works
- The commercial uses proposed are retail shops.

The estimated cost of the project is \$3.5 million.

Sustainability Assessment:

- **Environment**

The proposal will have a positive impact on the environment. All car parking will take place off the rear laneway, providing car parking for the shops and units and customers. The proposal has received an in-principle support in terms of Energy Efficiency, able to meet the minimum NatHERS 3.5 stars rating requirement of Council. This is due to the construction and with an orientation of the units and outdoor living areas facing east or north, helping to capture sea breezes and providing an attractive and usable open space area for each unit.

- **Social**

The proposal will create a development that will provide new, attractive accommodation for those wanting to live in the Sawtell area. The proposal will provide units of differing sizes which will cater for a mixture of differing household groups wanting to live closer to Sawtell Beach coastal and recreation areas.

Access to the building will be provided via a series of stairwells and an internal lift to each floor of the building. The retail shops have been designed to be pedestrian accessible from First Avenue, with a lift providing access to the rear car parking area.

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- **Economic**

The proposal will provide a new, well-designed mixed-use development that will improve the feasibility of the site and improve the street appeal, in accordance with the Draft Sawtell Development Control Plan (DCP) for First Avenue. Revitalisation of the town centre, and the improvements to the entry to Sawtell will all add economic benefit to the town centre. The development will provide employment for a whole range of sectors within the building industry during construction. Once completed, the development will also require on-going maintenance (i.e. landscaping, on site management and servicing) which will involve local businesses, while the shops will also provide good economic opportunities and vitality for the local commercial area both from their uses and employment opportunities. The current buildings and uses are a significant underdevelopment of the site and do not maximise the mixed use zoning of the site.

Broader Economic Implications

The project will value-add to and reinforce the business town centre of Sawtell.

Management Plan Implications

There is no impact on Council's Management Plan by the proposal.

Consultation:

The proposal has been advertised and notified, in accordance with the Notification DCP and 13 submissions have been received expressing the following concerns:

- *Contrary to the Sawtell Master Plan, Page 10*
- *Heritage buildings should be retained; does not conserve the heritage status of the site*
- *New development should be behind the existing buildings on the site*
- *An over-development of the site*
- *The village atmosphere will be eroded by this development, especially at the entrance to the shopping centre*
- *Setbacks of the residential component and height is contrary to the DCP for medium-high density development*
- *Gross floor area is larger than stated on their plans or application*
- *Inadequate parking to accommodate the larger units*
- *Inadequate landscaping areas*
- *Area is flood prone according to a 1998 Floodplain Management Study for Bonville*
- *The building is not unique, village style or heritage in appearance*
- *Ground floor units will be noisy being so close to the car park*
- *Bad high density housing design is the cause of many conflicts*
- *Will create a very bad precedent for the area if this is approved*

cont'd

- *Should allow a greater setback to the side boundaries to allow trees and landscaping*
- *The buildings are actually three storey and not two storey as required by Council's guidelines*
- *No loading or unloading bays provided on site*
- *Impact on the units from a future development to the north would be unacceptable for residents of those units*
- *Concern about the noise from the Sawtell Hotel on tourists and owner/occupiers of the units, causing a nuisance for them and potentially impacting on the operation of the Hotel.*

One letter of support has been received for the proposal, supporting the large amount of car parking provided on site, the increased densities of residential living, the good mix of land uses and the strong need to revitalise the First Avenue commercial area, an attractive proposal – a very positive step for Sawtell.

Comments on Submissions

The concerns are responded to as follows:

1. Retention of buildings:

The Sawtell Master Plan does not require the buildings to be retained. The submissions were quoting from the Heritage Consultant's report which is appended to the Master Plan - part of which has been adopted by Council and part has not been adopted by Council. This proposal does comply with the Draft Sawtell Master Plan and does allow for the buildings to be demolished. Page 9 of the adopted Master Plan states:

"Scope does exist for a number of sites to redevelop and/or expand, such as:

- *The Chinese restaurant on the northern side of Second Avenue*
- *The double-storey building to the north of the Chinese restaurant "*

2. Village atmosphere will be eroded

Whilst the proposal has more of a modern design theme, there are heritage elements in terms of the post supported verandahs, dormer windows and height of buildings being generally in scale with the existing buildings in First Avenue.

The applicant states:

The village atmosphere will only be invigorated by the introduction of additional retail shops and residential apartments in Sawtell. ... will extend the vibrant retail strip ... whereas shops north of Second Avenue suffer from a lack of character, appropriate built form ... and a shortage of activity... and will enhance the gateway into First Avenue and embrace the heritage character with the reuse of the Sawtell bricks into the north façade. The building has been designed to compliment the existing two and three storey buildings in First Avenue by incorporating a strong parapet to the street frontage, a distinguishable base, middle and top awnings to match those already existing along most of First Avenue. The northern elevation has been revised to incorporate the reuse of the Sawtell bricks in large panels expressing the banding that currently exists along the façade of No. 63."

These comments are supported by Council's Heritage Officer.

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3. Overdevelopment of the site

Amended plans have been submitted detailing full compliance with Council's Floor Space Ratio (FSR) requirement of 1:1. This FSR relates to Business Lands (i.e. business uses). The proposal is a mixed-use development and the FSR is considered most suitable for the site.

4. Setbacks contrary to the Medium Density DCP

The Medium Density DCP does not apply to this Business Town Centre zone. Residential setbacks in a mixed use, commercial zone, do not have a minimum requirement and are instead determined by adjacent uses and the livability of the units on the site.

5. Inadequate parking to accommodate the needs of users and residents

The proposal fully complies with Council's Off Street Parking DCP for Sawtell, meeting the requirements for the units and retail uses. Car parking for Sawtell requires restaurants and retail shops to provide one car space per 23m² of gross floor area for either use. This proposal fully complies with the requirements for retail and/or restaurant if this is applied for in the future.

6. Inadequate landscaping areas

The landscape proposal fully complies with the landscape information sheet and has been approved by Council's Parks Branch.

7. Area is flood-prone

Full compliance with Council's City Services requirements has been met in terms of floor levels. The area is not flood prone according to Council's records.

8. Ground floor units will be noisy so close to the car park

The applicant has advised:

"The ground floor apartments have been designed with masonry walls around the rear courtyards to provide additional soundproofing. Generally noise levels generated from car parking areas are relatively low given cars are travelling at low speeds."

This is supported by Council staff.

9. Bad high density housing design is the cause of many conflicts

The applicant states:

"This comment has no justification for this type of development."

It is agreed that there is no proof that a good quality development in this area would cause conflict and difficulties for residents within the development or nearby. This is not considered to be 'bad high density' housing, it is attractively designed and oriented towards First Avenue and the north, providing good quality design, meeting and exceeding Council's minimum standards. It is also not dissimilar to the newly developed mixed use development at the southern part of First Avenue, corner of Boronia Street and these units provide an attractive living alternative to units in purely residential areas.

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10. Should allow a greater setback to the side boundaries to allow trees and landscaping

A suitable landscaping setback has been provided to both the northern and southern boundaries for the planting of trees and shrubs.

11. The buildings are actually three-storey and not two-storey as required by Council's guidelines

The applicant's response:

"The building has been designed to present a two-storey frontage to First Avenue with the use of the parapet construction. The third storey is primarily contained within the roof space with small dormer windows providing natural light and ventilation. The rear wing of the building steps down the site to visually maintain a two-storey development from First Avenue."

It is agreed that the development meets the guidelines as outlined in the Masterplan and the Sawtell DCP, by providing a two-storey façade to First Avenue. The development is in scale with adjacent development - the dormer windows being 'hidden' behind the first floor parapet. The three-storey residential units to the rear will have no impact on the First Avenue streetscape, being 'cut into the lower ground level' reducing any impact on nearby properties.

12. No loading and unloading bays

Amended plans have been submitted showing an on-site loading bay at the rear of the site, accessible off the rear laneway. This has been supported by Council's Engineers as being usable, practical and accessible.

13. Noise from the hotel

Noise nuisance from the nearby hotel and Sawtell RSL should not cause any more noise or nuisance for these residents than occurs at the moment with nearby residents and/or tourists that are close to or adjacent to the hotel, especially with the outlook of the units facing either east or north, away from the noise sources. Being located within a commercial area, some level of noise impact may be expected.

Other Council Departments' comments:

- **City Services**

No objection, subject to conditions. Stormwater pipe located across the rear of the property is to be relocated.

- **Building and Development**

No objection, subject to conditions.

- **Environmental Services:**

No objection, subject to conditions.

cont'd

- **Parks:**

Some minor changes are suggested to be made to the landscape plans, otherwise the proposal is worthy of approval, subject to conditions.

- **Heritage Officer:**

Support has been given by Council's Heritage Officer to remove both buildings. That is, for a whole-of-site redevelopment: *"No objection is raised to the removal and redevelopment of the single storey building at 59-61 First Avenue. While the demolition of the building at No. 63 may in some ways detract from the heritage character and amenity of the Sawtell Heritage Conservation Area, the redevelopment proposed can be modified to cater for suitable replacement buildings.*

Although the Sawtell Heritage and Building Design Guidelines prepared in 2002 suggest that the site could be redeveloped with the building at No. 63 being retained and development occurring at the rear of the site; I believe that redevelopment can reflect the main 1950s building (No. 63 First Avenue) materials and form, including the façade, without the need to retain the building. It should be noted that the redevelopment of the Tourist Information lot at No. 71 First Avenue is likely to and is more appropriate to, become the new gateway to Sawtell.

With some modification to the northern elevation, with consideration to building form and materials used, the proposal can be supported."

Amended Plans have since been submitted showing amendments to the northern wall treatment incorporating the use of some of the original building's bricks into the northern wall finish. Comments from Council's Heritage Officer advise:

"The revised northern wall elevation addresses some of the concerns previously raised. It is a more appropriate outcome for the site and can be supported."

Safer by Design - requirements have been considered in this proposal and it is considered that the street frontage shops provide a safe environment as do the residential units above, providing an outlook to the street 24 hours a day, creating a safer environment for pedestrians. The rear car park will also be illuminated after dark, ensuring that there is safety and security for residents coming and going, together with the residential units overlooking the car park.

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.

cont'd

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)
- State Environmental Planning Policy (SEPP) 71
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- Draft Sawtell Master Plan
- Draft Sawtell DCP
- Off Street Car Parking DCP
- Business Lands DCP
- SEPP 65 – Residential Flat Design
- Heritage Information Sheet
- Landscape Information Sheet

- **Compliance with the Draft Sawtell Master Plan**

Compliance with the Master Plan has occurred in that it has taken into consideration the issues for the First Avenue, Sawtell area and in particular,

“Scope does exist for a number of ... sites to redevelop and/or expand, such as:

- *the Chinese restaurant on the northern side of Second Avenue, and*
- *the double storey building to the north of the Chinese restaurant. ...”*

This proposal better utilises the site’s potential, creating five new shops which will add to and enhance the commercial precinct of Sawtell, whilst providing 18 residential units in proximity to all services.

- **Heritage Controls for First Avenue, Sawtell**

No Conservation controls exist for this part of First Avenue, north of Second Avenue, covering the commercial area only. But they are proposed to be added in the future and are a part of a Draft Sawtell Master Plan and Draft Sawtell DCP. There was also a proposal to consider the listing of No. 67 First Avenue as a Local Heritage Item, but this has not occurred to date and is not supported by the owners of this building.

The draft Master Plan does not prohibit the demolition of either of these buildings and Council’s Heritage Officer has concurred with the removal of the buildings, subject to the northern wall treatment of the proposed building and based on the design response of the current proposal.

- **Compliance with the Draft Sawtell DCP**

Satisfactory compliance with the Sawtell DCP has occurred in all respects (see Section 79C Assessment, Attachment A).

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Issues:

- **Demolition of the buildings**

The proposed demolition of the buildings has been addressed above. Whilst objectors have argued for retention of the existing buildings, Council's heritage officer has endorsed their demolition. The buildings are not heritage listed or in a conservation area, although they are proposed to be included in a future conservation zone.

- **Overdevelopment of the site**

Concerns raised by objectors regarding the potential overdevelopment of the site cannot be justified. The proposal meets the requirements of both the Draft Master Plan and Draft DCP for Sawtell and has provided all required setbacks, floor space ratio of 1:1 for the mixed business use zone, open space requirements for the units, landscaping requirements, car parking, setbacks and height. The development is considered to be a good design that maximises the potential of the site.

- **Streetscape Character**

This new development will change the character of the street, and will provide an attractive northern entry to First Avenue's commercial precinct. Original bricks from the existing buildings will be used in the northern elevation of the building to add a feature and interest to the building. The two-storey development is in keeping with the character of the area and site, with a contemporary design, incorporating post supported verandahs and dormer windows to add some heritage elements to the theme of the building.

- **Mixed Use Zone and Use**

The mixed uses of retail and residential are considered to be most appropriate for this area and this zone. Good examples of how the two uses have been developed are located on the corner of First Avenue and Boronia Street, with retail and restaurants downstairs and residential units above. Shops, restaurants and units work well together and are encouraged to be located in this precinct. The three-storey scale of the development fronting First Avenue will not be repeated in First Avenue, under the new Draft Sawtell DCP, but the uses work well together and the existing buildings provide an attractive entry statement to First Avenue from the southern approach.

Summary

The application for a part two and part three storey, mixed retail and residential unit development at First Avenue, Sawtell is in keeping with the Draft Sawtell DCP and Draft Master Plan for Sawtell, meets the requirements of SEPP 65 in terms of design, and has the support of all branches of Council.

With all car parking provided off the rear laneway and the street appearance being in keeping with the scale and heritage character of the area, the proposal is considered to be an architecturally interesting and appealing building and will complement the area.

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Ped26Development Application 11/06 - Demolition Of Existing Buildings And Construction Of New Development Comprising 18 Residential Units And Five Retail Shops - Lots 7 And 8 Dp857331, 59-67 First Avenue, Sawtell ...(Cont'd)

The concerns raised by those who made submissions can be partly overcome by conditions, however the retention of the buildings is not viable and Council's Heritage Officer supports their removal.

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

Recommendation:

- 1. That Development Application 11/06 for an 18 residential unit and five retail shop development with associated car parking on Lots 7 and 8, DP857331, 59-67 First Avenue Sawtell be approved, subject to technical conditions (see Appendix B).**
- 2. That those who lodged submissions on this Development Application be notified of Council's decision.**

Attachments:

APPENDIX A:

**SECTION 79C EVALUATION
DEVELOPMENT APPLICATION 11/06**

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 with eastern and northern orientation.

- State Environmental Planning Policy No. 71 – Coastal Protection

The proposed mixed-use development satisfies the aims and matters for consideration in this Policy. The development site, whilst located within the Coastal Zone, is not affected by coastal processes and is not visible from the coastline. The site is clear of vegetation and all earthworks will require sediment and erosion control to prevent contaminated runoff into the stormwater system.

- Coffs Harbour City Council, Local Environmental Plan 2000

The site is zoned 3C Business Town Centre, which allows and encourages the development of mixed commercial and residential uses in this area. Both the retail and residential units are in accordance with LEP 2000, in respect of the objectives of the zone, providing development that contributes to the retail or commercial or social needs of the community and is compatible with the Town Centre Environment. The Draft Conservation area for this property, incorporating the area between Second Avenue and the northern extent of the commercial zone has not yet been adopted from a Draft into a final form. No heritage controls exist for these buildings. No other clauses in the LEP are applicable to these properties.

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),

- Draft Sawtell DCP

Compliance with the Draft Sawtell DCP has occurred in the areas of –

- Heritage – recognition of the area as a potential conservation area has meant the design of the buildings have a contemporary appearance with a ‘heritage slant’ to the design, in accordance with the recommendations in the Sawtell Master Plan. Some elements of heritage design have been incorporated into the building, with support from the Heritage Committee and Heritage Officer of Council.
- Design Principles – complies with the requirements of a verandah for protection from rain and sun; colours textures and materials to reflect the theme of the village; no overlooking or impact will be had on adjacent residential neighbours; be of a scale compatible with the streetscape; energy efficient development; building entry ways be at the same levels as footpaths; first floor residential units to incorporate decks, verandahs, hoods, eaves, etc; and a height of two stories to First Avenue.
- Setbacks to First Avenue to be 0m, and also to side setbacks can be 0 metres. This proposal provides a 0m setback to First Avenue and partly 0m to the side boundaries and partly stepped in.
- Car parking (at one per unit with a floor area less than 100m² and two per larger unit) and one space per 23m² of floor area for retail or restaurant. The DCP also requires car parking on site to be maximised and be solely off the rear laneway, with landscaping around the car park.
- Rear laneways to be upgraded and re-asphalted with roll over kerbing for the width of the development site – complies.
- Loading and unloading bays to be provided on site. A loading bay has been incorporated into the design with access off the rear laneway.
- Open space required is a minimum of 12m² per unit, either on a balcony or at ground level. Each unit provides in excess of this requirement – from 14m² to 35m² and all face north or east.
- Floor space ratio of 1:1 has been complied with. The site area is 2,124m² and the GFA of all buildings is 2,123m².

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 an attractive development and residential accommodation for different household types and economic benefits from the construction and ongoing maintenance will be ongoing while the commercial and residential 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, slopes to the rear and is currently underdeveloped. The site is also surrounded by a mixture of 60s and 70s style commercial development and more contemporary residential development to the rear, on the western side of the laneway. Good vehicular access is provided to the site via the rear laneway.

The site is appropriately zoned for the mixed-use development, while the proposal complies with Council's DCPs for this area in terms of scale and size of development proposed.

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

The application was advertised and notified and 13 submissions were received from nearby property owners and/or occupiers primarily concerned about the loss of the older style buildings on site and the contemporary development and compliance with the Master Plan and DCP. One letter of unconditional support was received for the proposal.

All technical sections of Council support the proposal subject to conditions.

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.

E. the public interest,

The application is considered to be within the public interest.

**Baird Salvarinas Hizar Architects Pty Ltd - 18 Residential Units/5 Retail Shops
Lots 7 and 8, DP 857331, No. 59-67**

**Development Application No. 11/06
Schedule of Conditions**

Additional Details or Applications:

1. Access and facilities for disabled persons being provided 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.
2. A separate 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**.
3. Submission of an application for Construction Certificate complying in all respects with the provisions of 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.
4. 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.
5. *The following works are to be provided to serve the development with the works conforming with the standards and requirements set out in Council's Technical Guidelines for and .*
 - *Full lane reconstruction including kerb and gutter, pavement and asphalt surfacing; and reconstruction of sewer and stormwater mains clear of buildings. (Submission of plans for approval by Council **prior to the issue of a Construction Certificate** for all works proposed on the footpath adjacent to the site.)*

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.

Waste Requirements:

6. The following are to be provided prior to occupancy:

- Residential waste should cater for at least half recyclable goods e.g. 1 x 1100L bin for recycling (future flexibility for organic waste in 2006).
- If bin washing is to be carried out, water must drain to sewer and comply with requirements of Liquid Trade Waste Guidelines 2005.
- Internal waste storage space is to be provided for source separation of waste within individual units.
- Clear signage is to be provided indicating waste bins and contents.
- Waste storage area is to be accessible to waste service collection and users.

7. All materials containing asbestos are to be handled in accordance with the relevant requirements of WorkCover , the Occupational Health and Safety Act and Australian Standard AS 2601-2001 "*The Demolition of Structures*".

Landscaping:

8. Landscaping 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.

Car Parking:

9. *Forty-three (43)* car parking spaces (sealed and linemarked) being provided on the development site. All car parking and vehicular manoeuvring areas being constructed in accordance Off-Street Carparking Development Control Plan. Carparking areas are to be maintained in a serviceable condition at all times. Details of car park paving and layout being submitted **prior to issue of the Construction Certificate**.

Sediment & Erosion Control:

10. Where excavation works or removal of vegetation is to take place on the site, control measures in 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.

Pollution Control:

11. Construction works are to be 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.

12. Effective measures shall be taken to suppress dust emissions during the course of , details of dust control being submitted to Council for approval **prior to issue of the Construction Certificate**.

Demolition:

13. No work is to be commenced upon the demolition or removal of the building until such time⁴ as the appropriate fees for disconnection of water and sewerage services are paid to Council where such services are no longer required.
14. The sewer drainage system shall be appropriately sealed to prevent ingress of water and debris into the Council main.
15. Arrangements are to be made with Council for the withdrawal of the garbage services and collection of waste bins.
16. A damage deposit of \$500.00 shall be lodged with Council as a bond to cover possible damage to Council property that may result during the removal of demolition material from the site. The deposit is to be lodged with Council and arrangements made for a dilapidation survey to be undertaken to assess the condition of Council property adjoining the land prior to the commencement of demolition work.
17. All waste building materials shall be recycled or disposed of to an approved waste disposal depot. No burning of materials is permitted on site. The site shall be graded to an even level with temporary erosion control measures being erected and maintained until the exposed areas of the site have suitably stabilised with grass cover.
18. All materials containing asbestos that are damaged or defective are to be handled in accordance with the Regulations under the Construction Safety Act and the Code of Practice issued by the New South Wales Department of Health, as well as the requirements of the Environment Protection Authority.

Energy Efficiency:

19. 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.

All kitchen and hand basin taps and washing machine(s) is/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.

20. 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.

Water & Sewerage Services:

21. 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.

a. The current contribution rate is:	Amount 100m²\$	Total (x .3 ET)\$
Works to satisfy increased demand within the area for shops 463.5m ² of industrial/commercial development		
Water	Headworks	4,441.66
	Reticulation	1,684.77
Sewer	Headworks	1,464.27
	Reticulation	2,719.36
	Amount Payable	14,336.13
b. The current contribution rate is:	Amount \$	Total \$
Works to satisfy increased demand within the area for 16 small units		
Water	Headworks	3,109.16
	Reticulation	1,179.34
Sewer	Headworks	1,024.99
	Reticulation	1,903.55
	Amount Payable	115,472.64
c. The current contribution rate is:	Amount \$	Total \$
Works to satisfy increased demand within the area for two large units		
Water	Headworks	4,441.66
	Reticulation	1,684.77
Sewer	Headworks	1,464.27
	Reticulation	2,719.36
	Amount Payable	20,620.12
		Total \$
	a)	14,336.13
	b)	115,472.64
	c)	20,620.12
	Total	150,428.89
	Minus Credits	<u>66,108.10</u>
	Total Amount Payable	<u>\$84,320.79</u>

Developer Contributions:

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

Notes

1. The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.
2. 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.
3. If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

	\$ Per Small Unit (x 16)	\$ Per Large Unit (x 2)
- Coordination and Administration	191.55	297.96
- Coffs Harbour Road Network	944.78	1,469.65
- Surf Rescue Equipment	49.19	76.51
- Regional Libraries	123.92	192.76
- Beach Protection Works	64.79	100.78
- Regional Open Space	208.34	324.08
- District Open Space	689.64	1,072.77
- Total	36,355.04	7,069.04

The Section 94 contribution is currently \$39,889.56 for the 18-unit development.

Contributions have been imposed under the following plans:

- Regional, District & Neighbourhood Facilities 2004
- Coffs Harbour Road Network 2003
- Coffs Harbour Local Roads, Trunk Drainage and Mines
- Extractive Industries 1999
- Surf Rescue Equipment 2003

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

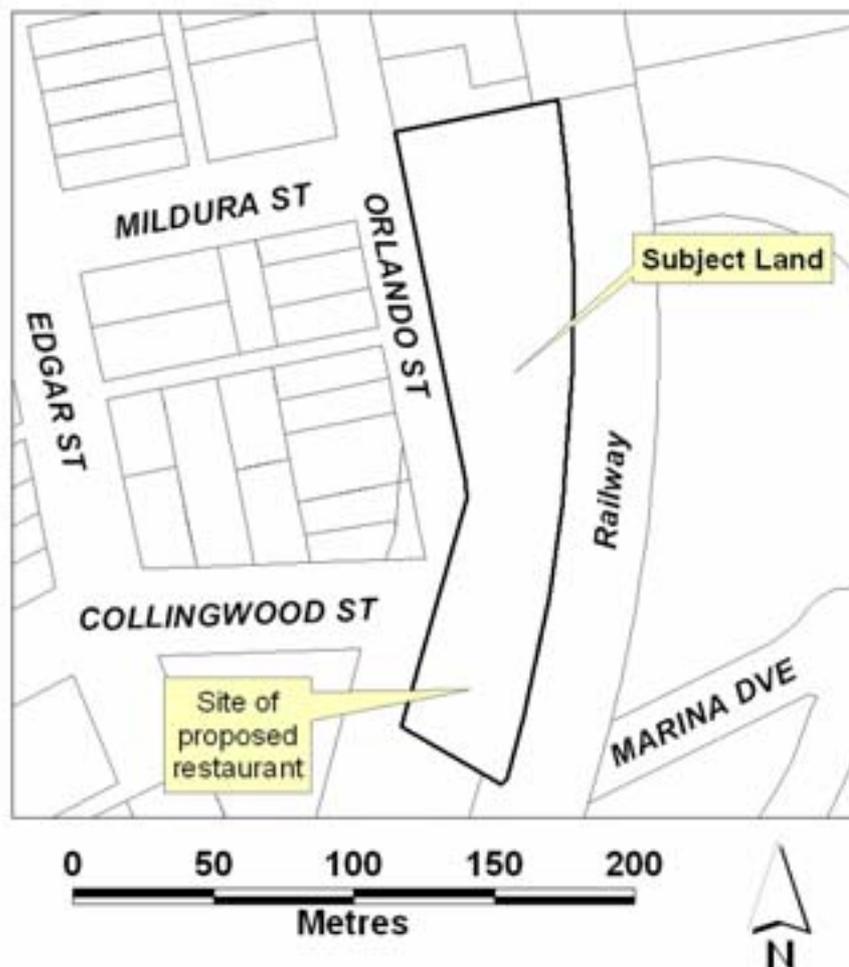
PED27 DEVELOPMENT APPLICATION 160/06 - RESTAURANT AND PLANNING AGREEMENT - LOT 65 SP 73861 65/22 ORLANDO STREET, COFFS HARBOUR (OCEAN GEM)

Purpose:

This report recommends approval of Development Application 160/06 being for the use of one of the two vacant ground floor commercial tenancies at the far southern end of the Ocean Gem mixed use development for the purposes of a 50-seat restaurant, and an associated Planning Agreement.

The report recommends that the Development Application be approved, together with the associated Planning Agreement relating to the provision of car parking, and other standard conditions of consent.

The project cost is \$150,000.



cont'd

Description of Item:

The three-storey Ocean Gem building was conditionally approved in April 2003 and constructed in 2003/2004, with the Development Consent being for the "*Multi Dwelling Complex (64 residential units), commercial use (190m²)*". Conditions relating to the commercial tenancy include: Condition 20, which states: The 190m² commercial component of this development is subject to further development consent from Council.

This application 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 for 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 (three nights a week initially) restaurant, operating from 7.30am to 11.00pm, seven days a week. 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.

History:

A previous report to Council in July 2005 recommended refusal of a previous application for the same use because of a shortfall in parking by 14 spaces. This was supported by Council and a refusal was issued. This determination for refusal is now subject of an appeal to the Land and Environment Court and the matter has been deferred by the Court to 17 October 2005, pending the outcome of this new Development Application (DA).

The new DA incorporates a provision for car parking, overcoming the concerns of the previous DA. The applicant and the owner of the Ocean Gem development have offered to participate in a Planning Agreement whereby they will pay a contribution to Council for the shortfall in car parking (i.e. a sum of \$28,000). This arrangement was accepted in principle by staff and a new DA was lodged with the written offer to participate in a Planning Agreement. Should this new application be approved by Council, the Appeal to the Land and Environment Court would be withdrawn.

A Planning Agreement is a new provision recently incorporated into the Environmental Planning and Assessment (EP&A) Act (Clause 93F) that provides for agreements between developers and Councils to satisfy the provision of public amenities or the like (e.g. car parking) as a part of the DA process. This proposal has necessitated the preparation of a legally binding agreement between the developer and Council which has been required to be advertised for 28 days. The agreement has been prepared by Council's solicitor in conjunction with the developer's solicitor, with the monies to be paid to Council after the approval of the DA and prior to the issue of a Construction Certificate for works in accordance with the DA.

The \$28,000 will be put towards public car parking. Following the July 2005 refusal of the restaurant DA, Council resolved to establish a "*multi-disciplinary team to prepare a Section 94 Contribution Plan for the provision of car 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.*" That team has been meeting and working towards this outcome.

cont'd

The original "Ocean Gem" development consent required part payment (\$50,000) towards the construction of a footpath over the railway line from Ocean Gem to the round-about. The contribution was required on the basis that the Ocean Gem development created a demand for pedestrian access across the railway line to the foreshore. This one-off payment has helped to facilitate the works that have occurred to date, with the remainder of the costs being funded by the Railway Infrastructure Corporation and Coffs Harbour City Council. On the basis that the original Ocean Gem development established a demand for its residents to have pedestrian access across the railway line to the foreshore, it is a reasonable proposition to accept that restaurant customers will park adjacent to the foreshore and cross the railway line to the restaurant on foot.

Sustainability Assessment:

- **Environment**

The proposal would have minimal impact on the built and natural environment, as the building exists at present and is vacant.

- **Social**

The proposal would create employment for up to 10 staff and provide a new eating facility for residents of the area as well as visitors to the Jetty restaurant strip close by, so would have a positive social impact on the area.

- **Economic**

The provision of a new restaurant will be a positive influence, showing growth and vitality for the area, attracting more businesses and activity. Vacant commercial shops are generally a negative economic indicator for an area and the restaurant use would remove that negative perception. A new restaurant would also potentially bring in more tourism dollars for the area.

Broader Economic Implications

Council should exercise caution in its preparation of a Planning Agreement and in particular ensure full recovery costs of developer required infrastructure and services.

Management Plan Implications

There is no impact on Council's Management Plan by this proposed restaurant use.

Consultation:

The application was advertised and notified and no submissions have been received.

cont'd

Other Council Department's Comments:

- **City Services:**

No objection. Loading and unloading for the restaurant can take place at the garbage truck turning area of the Ocean Gem development.

- **Building and Development Services:**

It appears that the proposal is a Class 6 (restaurant). Toilet facilities provided are suitable for a maximum seating capacity of 50 seats. Access to unisex disabled facility needs to comply with AS1428.

- **Contributions Planner:**

Water and sewer contributions required to be paid at a rate of 1.5 ET's per 100m² of restaurant floor area.

- **Trade Waste Officer:**

Trade Waste Approval issued in September 2003 but does not allow for insinkerators to be used. Trade waste has already been provided for on site.

- **Environmental Health Officer:**

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

- **Waste Collection Officer:**

The proposed waste collection area and alterations proposed to it will comply with Council's requirements and are supported.

Statutory Requirements:

- **Section 79C Evaluation**

Section 79C of the EP&A 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.

Under the Coffs Harbour City Local Environmental Plan (LEP) 2000 the site is zoned 3G Mixed Use. Commercial uses such as restaurants are permitted in this zone with Council consent. The aim of the zone is: *To provide for a mixed use development.*

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.

This proposal can satisfy these objectives.

The Jetty Area Development Control Plan (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: one space per 6.6m² GFA; or one space per three seats. This proposal would require 18 car spaces – a shortfall of 14 on-site car spaces, but can be complied with by means of the proposed Agreement.

- **Planning Agreements**

In August 2005 changes to the EP&A Act 1979, incorporated Sections 93F - 93L, which allows a Council, the Minister, a development corporation or a prescribed public authority to enter into Planning Agreements. These agreements may relate to a rezoning, a change to an environmental planning instrument or a development application. A Planning Agreement may provide for a monetary contribution, land dedication or material public benefit towards a public purpose.

Public purpose includes:

- providing or recouping the cost of public facilities, affordable housing or other infrastructure
- funding recurrent expenditure on public facilities, affordable housing or other infrastructure
- monitoring the impacts of development
- conserving and enhancing the natural environment

Requirements that a Planning Agreement must meet are:

- must be publicly exhibited
- must be considered along with other matters under 79C
- cannot require a rezoning or development consent or authorise a breach of the EP&A Act 1979
- consent authority cannot refuse development consent because a planning agreement is not entered into
- no merit appeal against the failure of a planning authority to enter into a planning agreement or the terms of an agreement – as they are voluntary agreements
- breach of a planning agreement is a breach of the EP&A Act 1979

cont'd

In this instance, the applicant/developer approached Council with the offer to provide a contribution for the shortfall in car parking. As there is currently no Section 94 Contribution Plan in place for car parking at the Jetty area, the option of a Planning Agreement was considered and supported in principle by the applicant and Council staff.

The Draft Planning Agreement was placed on public exhibition on Wednesday 21 September 2005 for a period of 28 days as required by Section 93G of the EP&A Act 1979. A copy of the Planning Agreement is attached as Appendix C.

Other property and business owners have approached Council with interest in developing their properties using Planning Agreements. It is recommended that Council not enter into further Agreements in this area until the Jetty area on-street parking contributions plan has been adopted by Council.

Issues:

- **Car Parking**

A shortfall of 14 car spaces for the proposed restaurant is the main issue concerning the proposed restaurant use. The proposed Planning Agreement would see the additional 14 car spaces provided by means of contribution. This would be held in trust by Council until the Section 94 Contributions Plan has been completed and the funds would be allocated to the provision of the car parking, as determined by the proposed new Plan.

- **Pedestrian Access**

A new pedestrian crossing has recently been installed across the railway line, on the northern side of Marina Drive. This, together with existing pedestrian refuges on Orlando Street, will ensure adequate access to the Ocean Gem development.

- **Unloading for the restaurant**

The proposed unloading area for the restaurant will be located adjacent to the waste enclosure of the Ocean Gem complex. This area will be used only intermittently and is a suitable, safe and convenient location for restaurant deliveries.

- **Waste Collection**

Some minor, improved modifications to the existing waste collection area are proposed for the project.

- **Ocean Gem Development Application Determination re: parking and uses**

The report to Council for the original Ocean Gem development (in 2003) did not pre-empt the use of these commercial tenancies for heavy car usage operations such as restaurants, but did outline the provision of car parking in the basement for staff.

The second tenancy has a smaller floor area (80m²) and has two car spaces allocated to it in the basement. No application has been made for this tenancy at this stage. Council may need to follow a similar application process for this tenancy.

cont'd

- **Jetty Area Masterplan**

Council is in the process of carrying out a study of the Jetty residential, commercial and foreshore area. The consultant has been instructed to review carparking provision as part of the study. A preliminary report is anticipated prior to the end of 2005, and it is envisaged that the report will include recommendations regarding the need or otherwise for additional carparking and potential locations. In conjunction with this, Council's internal working group is continuing to explore options for the embellishment of on-street parking in areas within the Jetty precinct. It is intended that these two investigations will culminate in a contributions plan being prepared for parking within the Jetty precinct, which may include both on-street and off-street locations.

Summary

The application to use the 110m² vacant ground floor commercial tenancy at the southern end of Ocean Gem as a restaurant is supported, in conjunction with the Planning Agreement for the provision of contribution in lieu of 14 car spaces. The development complies with the objectives of the Mixed Use Zone.

Recommendation:

1. **That Development Application 160/06 for a restaurant, with associated car parking be approved, subject to technical conditions (see Appendix B).**
2. **That following execution of the Planning Agreement by the Developer, Council delegate authority to execute the Planning Agreement to the General Manager (Acting).**
3. **That in accordance with S93G of the Environmental Planning and Assessment Act 1979, a copy of the Planning Agreement be forwarded to the Minister within 14 days of the agreement being entered into.**
4. **That no further Planning Agreements for the Jetty area be entered into for Development Applications received by Council after this date until such time as the Jetty area on-street carparking contribution plan has been adopted.**

**SECTION 79C EVALUATION
DEVELOPMENT APPLICATION 160/06**

A. the provisions of:

i. any environmental planning instrument, and

- North Coast REP

This DA is consistent with the REP in terms of its use and development and impact on the amenity of the area.

- Coffs Harbour City Council, Local Environmental Plan 2000

The site is zoned 3G Mixed Business Zone, which allows and encourages the development of mixed commercial and residential uses in this area. The restaurant use is permissible with consent, is in accordance with LEP 2000 in respect of the objectives of the zone, providing for a development that contributes to the retail or commercial or social needs of the community and is compatible with the area. All areas of compliance have occurred with the LEP.

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),

- Jetty Area

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 via the proposed Planning Agreement.

- Off Street Car Parking DCP

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

Whichever is the greater of: 1 space per 6.6m GFA; or 1 space per 3 seats. This proposal complies with this requirement.

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, social or economic impacts. See above, within the report.

C. the suitability of the site for the development,

The existing commercial tenancy is highly suitable for indoor and outdoor dining, with minimal impact likely to any nearby property owners or occupiers.

The site is appropriately zoned for the mixed use development, while the proposal complies with Council's DCPs for this area in terms of use and development.

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

The application was advertised and notified and no submissions were received regarding the DA use of restaurant, or the proposed Developer Agreement.

Council's technical sections have reviewed the application and are supportive of the project subject to conditions.

E. the public interest,

The application is considered to be within the public interest.

DRAFT CONDITIONS

Development Application No. 160/06

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. Access and facilities for disabled persons being provided 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.
3. 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**.

Noise Control:

4. Noise emanating from the premises shall at all times be in compliance with the provisions of the Protection of the Environment (Operations) Act 1997.

Trade Waste:

5. Discharge of trade waste to Council's sewer will not be permitted until formal approval for the discharge has been received from Council.

Car Parking:

6. *Four (4)* car parking spaces being provided in the basement carpark on the development site. All car parking and vehicular manoeuvring areas being constructed in accordance with Council's Off-Street Carparking Development Control Plan. Carparking areas are to be maintained in a serviceable condition at all times. Details of car park paving and layout being submitted **prior to issue of the Construction Certificate**.

Pollution Control:

7. 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.

Waste Management:

8. Garbage storage and facilities being provided in accordance with Council's code for storage and handling of bulk waste, with details being submitted **prior to issue of the Construction Certificate.**

Water and Sewerage Services:

9. 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:

		Amount/ 100 m ² \$	Total (x 1.5 ET) \$
Works to satisfy increased demand within the area for 110 square metres of industrial/commercial development			
Water	Headworks	4,441.66	7,328.74
	Reticulation	1,684.77	2,779.87
Sewer	Headworks	1,464.27	2,416.04
	Reticulation	2,719.36	4,486.94
TOTAL AMOUNT PAYABLE			17,011.59

Seating:

10. A maximum of 50 seats is permitted in the restaurant area, unless written consent is given by council to increase this number.

Environmental Services Requirements:

11. Submission of and approval by Council of fit-out details complying with AS 4674 – 2004 (Design, Construction and Fitout of Food Premises) is to occur **prior to the release of a Construction Certificate.**
12. An additional hand wash basin convenient to the bar area is to be provided with both hand wash basins providing hands free taps and a common spout, to be provided in the final plans.
13. All exposed wall/ceiling surfaces that are not treated with stainless steel or ceramic tile finish, are to be painted with a washable light colour.
14. A progress inspection by Council's Environmental Services Branch is to occur **prior to trade commencing.**
15. The food premises is to be registered with Council and the NSW Food Authority, **prior to commencement.**

Hours of Operation:

16. The permitted days and hours of operation are 7.30 am to 11.00 pm, seven (7) days a week.

Planning Agreement:

17. **Prior to the issue of a Construction Certificate** the applicant will enter into a Planning Agreement with Council, requiring the provision of a cash-in-lieu payment for carparking spaces, in accordance with the duly exhibited Planning Agreement and exhibited between 21 September 2005 to 18 October 2005. Payment to Council in accordance with this Agreement is also to occur **prior to the release of the Construction Certificate.**

**PLANNING AGREEMENT PURSUANT TO SECTION 93F OF THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979**

BETWEEN

COFFS HARBOUR CITY COUNCIL

AND

THE DEVELOPER SPECIFIED IN ITEM 1 OF THE SCHEDULE

MBT Lawyers
Level 5, 24 Moonee Street
DX 7551 COFFS HARBOUR NSW 2450
Tel: (02) 6648 7600
Fax: (02) 6648 7666
BL:251113

- 1.3 A reference to a party in this Agreement shall include in the case of a natural person a reference to their personal representatives, successors in title and assigns and in the case of a corporation, a reference to its directors, officers, employees, successors and assigns.
- 1.4 Every agreement or undertaking expressed or implied by which more persons than one agree or undertake any obligation or derive any benefit in terms of this Agreement shall bind or enure for the benefit of such persons jointly and each of them severally.
- 1.5 Where any word or phrase is given a definite meaning in this Agreement, any part of speech or other grammatical form of that word or phrase has a corresponding meaning.
- 1.6 A reference to a statute, regulation or rule includes all amendments, consolidations or replacements thereof from time to time.
- 1.7 No rule or construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement.
- 1.8 Headings have been inserted for guidance only and shall not be deemed to form any part of the contents of this Agreement.
- 1.9 The "Contribution" means the amount specified in Item 4 of the Schedule.
- 1.10 The "Development" means the development specified in Item 3 of the Schedule.
- 1.11 The "Developer" means the parties specified in Item 1 of the Schedule.
- 1.12 The "EPAA" means the *Environment Planning and Assessment Act 1979* (NSW).
- 1.13 The "GST" has the same meaning as in the GST law.

- 1.14 "GST Law" has the meaning given to that term in "A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or Regulation relating to the imposition or administration of the GST"
- 1.15 "Land" means the land specified in Item 2 of the Schedule.
- 1.16 "Public Purpose" means the purpose specified in Item 5 of the Schedule.

Planning Agreement under the EPAA

2. The parties agree that this Agreement is a Planning Agreement governed by Subdivision 3 of Division 6 of Part 4 of the EPAA.

Condition Precedent to the Commencement of this Agreement

3. The commencement of this Agreement is subject to and conditional upon CHCC determining to grant development consent for the Development.

Developer's Contribution

4. Subject to this Agreement coming into effect in accordance with clause 2, the Developer agrees to pay the Contribution to CHCC as a condition precedent to the issue of a Construction Certificate by CHCC.

No Fettering of Legal Obligations

5. Nothing in this Agreement shall be construed as requiring CHCC to do anything that would cause it to be in breach of any of its obligations at law, and without limitation nothing shall be construed as limiting or fettering in any way the exercise of any such discretion or duty by CHCC.

6. The Developer hereby expressly acknowledges and accepts that this Agreement cannot and does not impose any obligation on CHCC to grant development consent for the Development and that CHCC must determine that application in accordance with its obligations under the EPAA and any other applicable environmental planning instruments and legislation.

Application of the Contribution

7. CHCC will retain the Contribution once paid by the Developer and will use and apply it towards the Purpose within a reasonable time.

Non-Application of Sections 94 and 94A of the EPAA

8. This Agreement expressly excludes the application for Section 94 and 94A of the EPAA in relation to the Development and CHCC shall not impose a condition of any development consent granted in respect of the Development under either of those sections.

Registration

9. The parties hereby consent to the registration of this Agreement pursuant to Section 93H of the EPAA.

GST

10. If the Developer by payment of the Contribution is liable to pay GST then the Developer shall also pay GST on and in addition to the Contribution.

Dispute Resolution

11. If a dispute arises out of or relates to this Agreement or the breach, termination, validity or subject matter thereof, the parties hereby agree to endeavour in good faith to settle the dispute by mediation with the mediator to be appointed by agreement between the parties and failing agreement, as appointed by the Institute of Arbitrators and Mediators Australia.

Further Assurances

12. Each party shall take all steps, execute all documents and do everything reasonably required by the other party to give effect to the transactions contemplated by this Agreement.

Independent Legal Advice

13. The parties hereby acknowledge that they have received independent legal advice explaining the effect of this Agreement prior to signing the same, and further that they understand the effect of this Agreement.

Costs

14. Each party shall pay that party's own costs in relation to this Agreement.

Construction

15. The construction, validity and performance of this Agreement shall be governed in all respects by the law of New South Wales.

Counterparts

16. This Agreement may be signed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same document.

Severability

17. If any provision of this Agreement is held to be invalid or unenforceable for any reason, it shall be severable and shall not affect the remaining provisions of this Agreement.

Modification

18. No modification of this agreement will be of any force of effect unless it is in writing and signed by the parties to this Agreement.

Waiver

19. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given and it is not to be taken as an implied waiver of any other obligation or breach or is an implied waiver of that obligation or breach in relation to any other occasion.

Entire Agreement

20. This Agreement constitutes the entire agreement of the parties relating to this Agreement and supersedes all prior understandings, negotiations, agreements, whether written or oral, expressed or implied in relation thereto.

SCHEDULE

1. **The Developer:**
M & A Hawkins Constructions Pty Limited ABN 50 066 815 281 of registered office C/- Terry Duveen & Co., Suite 9B, 818 Pittwater Road, Dee Why, NSW 2099 and Mark Hawkins of 345 Harbour Drive Coffs Harbour New South Wales 2450.
2. **The Land:**
Lot 65 Strata Plan 73861 being the land situated at and known as Unit 65 "Ocean Gem", 22 Orlando Street, Coffs Harbour New South Wales.
3. **The Development:**
Coffs Harbour City Council Development Application No. 160/06 for the establishment of a restaurant on the Land.
4. **The Contribution:**
\$28,000.00 in lieu of 13 car parking spaces.
5. **The Public Purpose:**
The provision of public car parking in the Coffs Harbour Jetty area.

IN WITNESS WHEREOF the parties have set their hands and seals on the day first hereinbefore mentioned

SIGNED for and on behalf of COFFS HARBOUR CITY COUNCIL in the presence of:))) General Manager

..... Witness

SIGNED for and on behalf of the Developer M & A Hawkins Constructions Pty Limited ABN 50 066 815 281 by the authorised persons pursuant to Section 127 of the Corporations Act 2001 in the presence of:))) Name: Position held:)))

..... Witness Name: Position held:

SIGNED by the Developer Mark Hawkins in the presence of:))) Mark Hawkins))) Witness

**Explanatory Note to Draft Planning Agreement
Pursuant to Regulation 25E of the
Environmental Planning and Assessment Regulation 2000**

1. Parties

COFFS HARBOUR CITY COUNCIL ("the Council")

M & A HAWKINS CONSTRUCTIONS PTY LIMITED and MARK HAWKINS ("the Developer")

2. Description of Land

Lot 65 Strata Plan 73861 being the land situated at and known as Unit 65 "Ocean Gem", 22 Orlando Street, Coffs Harbour New South Wales ("the Land").

3. Description of the Development Application

The establishment of a restaurant on the Land ("the Development").

4. Summary of Objectives, Nature and Effect of the Draft Planning Agreement

The objective of the Draft Planning Agreement is to provide for a monetary contribution to be made by the Developer in lieu of providing 13 car parking spaces which is to be utilised for the purpose of the provision of public car parking in the Coffs Harbour Jetty area.

The effect of the Draft Planning Agreement is that if the Council approves of the Development then the Developer would be required to pay a contribution of \$28,000.00 before the Council will issue a construction certificate.

5. Assessment of the Merits of the Draft Planning Agreement

5.1 The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement serves the planning purpose of the Council recovering a monetary contribution which will be applied towards meeting the increase in demand on public car parking within the Coffs Harbour Jetty area by the Development.

5.2 How the Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

The Draft Planning Agreement promotes provision and coordination of community services and facilities, specifically public car parking in that the funds which are to be contributed by the Developer are to be applied towards the creation of additional car parking.

5.3 How the Draft Planning Agreement Promotes the Public Interest

The Developer's contribution towards the costs of creating additional public car parking in the Coffs Harbour Jetty area will be for the benefit of the public who use the Coffs Harbour Jetty area.

5.4 How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the raising of funds for a local purpose specifically to provide adequate car parking facilities for the Coffs Harbour Jetty area into the future.

5.5 Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The Draft Planning Agreement conforms with the Council's capital works program.

5.6 The Impact of the Draft Planning Agreement on the Public or Any Section of the Public

The Draft Planning Agreement will have a positive impact on the public as the funds to be contributed by the Developer will be utilised for the public benefit in creating additional car parking in the Coffs Harbour Jetty area.

Signed and Dated

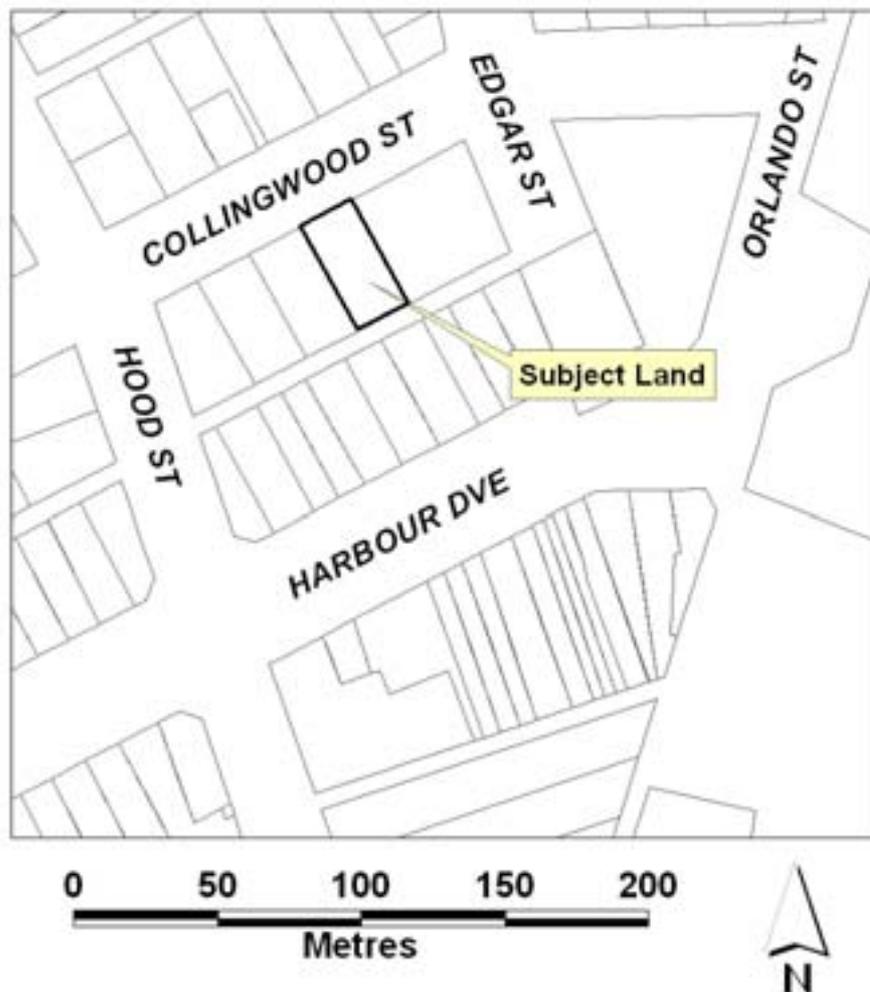
For and on behalf of
Coffs Harbour City Council

For and on behalf of
the Developer

PED28 DEVELOPMENT APPLICATION 1833/05 - TWO-STOREY RESIDENTIAL DEVELOPMENT (SIX UNITS) - LOT 14 SECTION 67 DP 758258, 42 COLLINGWOOD STREET, COFFS HARBOUR

Purpose:

The application proposes a two-storey townhouse development (six units) with basement car parking and landscaping. The report recommends approval of the development subject to conditions.



Description of Item:

42 Collingwood Street currently has an older style dwelling located on it with a laneway at the rear, running east west.

It is proposed to construct a basement car park with a single access off Collingwood Street, providing 12 car spaces and a small amount of storage in the car park. A two-storey townhouse residential development is proposed to be constructed above the basement car park, with landscaping located around all four sides. The proposal comprises six units, each comprising a ground floor living, dining and kitchen area with a master bedroom and front entry; first floor comprises two bedrooms, bathroom and rumpus room. Each unit has a private open space area facing east, incorporating a private outdoor dining area. The estimated cost is \$1.1 million.

cont'd

Sustainability Assessment:

- **Environment**

The proposal will have a positive impact on the environment. All car parking will take place at basement level, off Collingwood Street and out of sight.

The proposal has received an in-principle support in terms of Energy Efficiency, able to meet the minimum 3.5 stars rating requirement of Council. This is due to the materials used in construction and orientation to the east which will help capture the sea breezes and provide for easterly facing outdoor living areas.

- **Social**

The proposal will create a development that will provide new, attractive accommodation for those wanting to live in the Jetty area. The proposal will provide six townhouse style units.

- **Economic**

Broader Economic Implications

The proposal will provide a new development that will remove an old, partially derelict cottage, altering the outlook for adjacent properties. 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 (i.e. landscaping, on site management and servicing) which will involve local businesses. The older style house is an underdevelopment of the site and does little to contribute to the economic vitality of the area. This new development will change that situation

Management Plan Implications

There is no impact on Council's Management Plan by this residential project.

Consultation:

The proposal has been advertised and notified in accordance with the Notification Development Control Plan (DCP) and one submission has been received from a neighbour expressing concern about the development and in particular:

- *the excessive roof planes of the buildings will interfere with the views from our property and the overall appearance of the buildings will have a negative impact upon the aesthetic qualities of the area*
- *not enough use of timber in the design of the buildings*
- *no mix of housing choice*
- *no opportunity for street surveillance*
- *non-compliance with the DCP for this area*

cont'd

- *overdevelopment of the site*
- *inadequate side and rear setbacks for the development, contrary to the DCP*
- *solar impacts on the neighbours is questionable*
- *lack of privacy screening*
- *inadequate open space and landscaping provided*
- *driveway into the basement car park is too steep*

Comments on Submission

These concerns can be addressed as follows:

- **Views** - height profiles erected on the site by the applicant show the height of the first floor of the units is actually lower than the objectors' properties. Whilst the view towards Mutton Bird Island will be lost for one of the objector's units, the view from the rear objector's unit will only be impacted on marginally as they can retain a large area of view towards the south east. However the area is a redevelopment area and this site is a redevelopment site and has the potential to build to 10m to the eave. This proposal is a two-storey development, well short of the 10m permitted. Loss of views in itself does not constitute grounds for refusal and the Jetty area DCP requires views to be retained along view corridors of Collingwood Street, Mildura Street and the laneway between the two, towards the Harbour. View corridors are not required to be provided within development sites.
- **Timber** - use in the building is not a requirement in Council's DCP, but a mix of materials is and this proposal has incorporated an appropriate mix of materials and colours.
- **Mix of housing choice** - whilst this is encouraged, it is not a mandatory requirement in the DCP.
- **Street surveillance** - will occur from the front Unit 1, with windows from their lounge, dining, entry, stairway and bedroom three.
- **Overdevelopment** - the proposal complies with the density requirement, except for a 0.03% (or 24m² shortfall in land area). This is considered to be negligible.
- **Side and rear setbacks** - do not comply to the setbacks required in the DCP. Ground floor side setbacks are 3m to the west and east, which complies with the DCP requirements. First floor side setbacks are 4.5m to the west and 4.75m to the east, again having minimal impact on the adjacent properties due to the location of driveways, but fully complying with the DCP. The three townhouses to the west are located less than 4m from the western boundary, but have their driveway between this building and the proposed development, thereby reducing any overshadowing or privacy impacts. The rear setback of 2.04m is less than required by the DCP but considered to be acceptable when adjacent to a laneway where no negative impact will occur. Commercial properties are located on the southern side of this laneway.
- **Overshadowing** - will be minimal for both eastern and western properties with some early morning shadowing over the western neighbours and some late afternoon shadowing over the eastern development (when it proceeds). However, full compliance with Council's DCP will occur in this regard.

cont'd

- **Privacy** - first floor accommodation of this proposal is secondary bedrooms and a small rumpus room only, with no external balconies on this level. In contrast, the neighbouring property to the west has first floor living room balconies that overlook directly onto the proposed development.
- **Open space** - fully complies with the DCP - with 350-380m² open space being provided on site; perimeter landscaping is provided and in excess of 20m² of open space per unit is provided. The ground floor open space areas face east and are well designed and functional for outdoor dining or recreation.
- **Driveway too steep** - the proposal meets Council's requirements.

Other Council Departments' comments:

- **City Services**

No objection subject to conditions.

- **Building and Development**

No objection subject to conditions.

- **Parks:**

Landscape plans approved.

Statutory Requirements:

- **Section 79C Evaluation**

Section 79C of the (EP&A) 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.

- SEPP 71
- North Coffs Regional Environmental Plan (REP)
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- Medium-High Residential DCP.

cont'd

Issues:

- **Compliance with the Medium-High Density DCP**

Compliance with the Medium-High Density DCP has occurred in the key areas of height, open space, car parking, setbacks to the front boundary, western side boundary and design. The slight variation in the density is negligible (being 0.03% over) and the setbacks to the southern laneway which will have a minimal impact on adjacent properties.

- **Impact on neighbour's properties to the west**

The neighbour's concerns have been addressed above and it is considered that the two-storey development will not unreasonably impact on the amenity of the western townhouses. This proposal will be lower in height than the two-storey unit development to the west, will have minimal impact on the neighbours in terms of overlooking and overshadowing, but will create some loss of view towards Mutton Bird Island, particularly for the middle unit and to some extent for the rear unit.

Summary

The application for a two-storey, six-unit development is in keeping with the Medium-High Density Controls for this area, and has the support of all branches of Council. The Jetty area is an area in transition, with older style houses being replaced with multi-unit developments in accordance with Council's policy for this area. This proposal is only two-storey high, having a height of 6m, whereas in this area a 10m height could have been proposed. The basement car park reduces the development's impact on the area. It is recommended that the proposed garbage area at the front be relocated to the rear laneway, improving the street appearance. The front setback is proposed to be well landscaped, and with an architecturally interesting and appealing building, the proposal should complement the area.

The proposal complies with the objectives of the Medium-High Density Residential DCP. One submission (with two signatories) has been made to the proposal and their concerns have been addressed above.

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

Recommendation:

1. **That Development Application 1833/05 for a six-unit development (two stories with a basement car park) on Lot 14 Section 67 DP758258, 42 Collingwood Street Coffs Harbour be approved, subject to technical conditions (see Attachment B).**
2. **That those who lodged a submission to this Development Application be notified of Council's decision.**

Attachments:

APPENDIX A

**SECTION 79C EVALUATION
DEVELOPMENT APPLICATION 1833/05**

A. the provisions of:

i. any environmental planning instrument, and

- State Environmental Planning Policy No. 71 - Coastal Protection

The unit development satisfies the aims and matters for consideration in this Policy. The development site, whilst located within the Coastal Zone, is not affected by coastal processes and is not visible from the coastline. The site is clear of vegetation and all earthworks will require sediment and erosion control to prevent contaminated runoff into the stormwater system.

- North Coast REP

This proposal has complied with the REP in terms of Development Control for coastal lands (not impacting in any way on access or impact on the foreshore); Development Control - residential development (in that the density has been maximised without adversely affecting the environmental features of the land, and sediment and erosion control measures will be put in place to prevent site erosion during construction).

- North Coast Design Guidelines

Requires 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 with hoods, eaves and interesting design.

- NSW Coastal Policy

Relevant goals have been complied with.

- Coffs Harbour City Council, Local Environmental Plan 2000

The site is zoned 2C Medium-High Density Residential which permits with Development Consent, the erection of multi-unit residential development in this area. In respect of the objectives of the zone, the proposal would provide development that contributes to the residential or social needs of the community and is compatible with the Jetty area development that currently exists in the area.

Clause 13 requires consent for landform modification to create the basement car park. This has been taken into consideration when assessing this DA and satisfies the requirements of Council.

Clause 14 requires adequate water and sewer to be provided to adequately service the development. This is available in this area.

The site is not affected by heritage controls nor is it affected by acid sulfate soils, flooding or koala habitat.

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),

- Medium-High Density Residential DCP

Compliance with the Medium-High Density DCP has occurred in the areas of

- Car parking - two per unit required and are provided in the basement car park - complies.
- Height - 10m maximum height, but this proposal only has a 6m height to eaves - complies.
- Open space required per unit is 12 m². This proposal has in excess of 20m² per unit. Landscaping - minimum area is to be 30% of the site area - this has also been achieved in this design - complies.
- Privacy - first floor windows are associated with bedrooms 2 and 3 only and are not considered to be a cause for loss of privacy, when these rooms are used for sleeping at night when curtains will be closed to provide their own privacy - complies.
- Overshadowing - the overshadowing plans show compliance with Council's DCP that requires a minimum of 2 hours of sunshine a day between 9am and 3pm over the neighbouring properties. Only the eastern and western neighbours would lose some early morning or late afternoon sun, with the impact reduced due to the lower height of the units - complies.
- Design - variety in built form has been achieved with a mix of materials and roof pitches and setbacks and window hoods and so on - complies.
- Setbacks from the front complies; as do side setbacks from the western and eastern boundaries; the rear setback is 2.04m in lieu of 3m but as this is adjacent to a laneway, the impact is negligible except may impinge slightly on the view towards Mutton Bird Island for the rear western neighbour. The western neighbours' unit are set back 2.5m from the rear laneway, very similar to this proposal.
- Density - allows for a number of units per m² of land area. This proposal slightly exceeds the site area required by 24m² (or 0.03%) - not considered to be at all unreasonable. This has also been considered to be compensated by smaller units in terms of height and additional landscaping due to all car parking being in the basement, eliminating the need for lengthy driveways and noise and nuisance from cars manoeuvring into and out of garages at ground level - complies, with a small variation which has minimal impact.

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 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 an attractive residential development and economic benefits from the construction and ongoing maintenance will be ongoing, adding economic benefit to nearby and surrounding properties, rather than a run down, derelict property.

C. the suitability of the site for the development,

The site is rectangular and regular in shape, slopes to the front and is currently underdeveloped with an older style dwelling of light weight construction - timber and fibro. The site is also surrounded by a mixture of vacant land, older style unit developments and more contemporary residential development. Good vehicular access is provided to the site via Collingwood Street.

The site is appropriately zoned for the residential development, while the proposal complies with Council's DCP for this area in terms of scale and size of development proposed.

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

The application was advertised and notified and 1 submission (with two signatories) were received from the adjacent property owners and/or occupiers primarily concerned about the loss of views, impact on their amenity and non compliance with the DCP.

Submissions from internal sections within Council support the proposal, subject to conditions to incorporate on the Development Consent.

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

E. the public interest,

The application is considered to be within the public interest.

Development Application No. 1833/05

Demolition of the existing building and erection of six multi-unit dwellings with a basement carpark

Schedule of Conditions

Additional Details or Applications:

1. Submission of an application for Construction Certificate complying in all respects with the provisions of the EP&A 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. 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.**
3. Prior to occupation of the building, a vehicle gutter crossing is to be provided. Such work is subject to separate application, fees and approval by Council.
4. The sewer main is to be relocated clear of the building in accordance with Council's "*Building in the Vicinity of Sewer Mains*" Policy.

Plans to be approved by Council **prior to the issue of a Construction Certificate.** All work is to be at the developer's cost.

5. 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.
6. Stormwater being drained to *Collingwood Street* 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.

7. 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.

8. A footpath, being constructed along the full frontage of the site in accordance with Council's Plan No. 2011007. The footpath is to be in concrete unless Council's approval is obtained for any alternative footpath treatment.
-

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 and 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 and Sediment Control Policy and Practice for Building and Development Sites to prevent the erosion of soil are to be undertaken at each appropriate construction stage.

Pollution Control:

10. 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.

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

Energy Efficiency:

12. Written certification is to be submitted prior to occupation inspection to confirm that energy efficiency measures required to achieve a minimum 3.5 star rating have been implemented.
13. 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.

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.

Alfresco Dining Area:

15. The outdoor alfresco dining areas associated with each unit shall not be enclosed with a permanent structure.

Car Park Ventilation:

16. **Prior to issue of the Construction Certificate**, verification will need to be provided to Council that ventilation of the basement carpark complies with Australian Standard AS 1668.2 for any required mechanical ventilation/exhaust system. An acoustical report will need to be provided with this to ensure that noise associated with any mechanical system does not or will not cause nuisance to neighbours.

Demolition:

17. No work is to be commenced upon the demolition or removal of the building until such time as the appropriate fees for disconnection of water and sewerage services are paid to Council where such services are no longer required.
18. The sewer drainage system shall be appropriately sealed to prevent ingress of water and debris into the Council's main.
19. Arrangements are to be made with Council for the withdrawal of the garbage services and collection of the waste bins.
20. A damage deposit of \$500 shall be lodged with Council as a bond to cover possible damage to Council's property that may result during the removal of demolition material from the site. The deposit is to be lodged with Council and arrangements made for a dilapidation survey to be undertaken to assess the condition of Council property adjoining the land prior to the commencement of demolition work.
21. All waste building materials shall be recycled or disposed of to an approved waste disposal depot. No burning of materials is permitted on site. The site shall be graded to an even level with temporary erosion control measures being erected and maintained until the exposed areas of the site have suitably stabilised with grass cover.
22. 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 AS 2601-2001 "The Demolition of Structures".

Height of Building:

23. The height of the proposed development is not to exceed the design heights as represented on drawing number 0525501 dated August 2005. Written certification shall be submitted from a registered surveyor to confirm that the design height of the under side ceiling is 8.6m AHD as shown on the plans and has been undertaken in accordance with the approved plans. Certification shall be submitted to the Principal Certifying Authority at the following stages of the development, prior to proceeding to the next nominated stage of the development:
 - 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.

Spoil from excavation:

24. 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:

25. 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:

26. 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 Storage Area:

27. The waste storage area shall be relocated to the rear of the property, for collection from the laneway, with the front setback area being landscaped, in accordance with the approved landscape plans.

The 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 storage and handling of waste. The area shall also be roofed to prevent rainwater entering the sewer.

Water and Sewerage Services:

28. 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:

	Amount/unit	Total
	\$	\$
Works to satisfy increased demand within the area for six units		
Water		
Headworks	4,441.66	26,649.96
Reticulation	1,684.77	10,108.62
Sewer		
Headworks	1,464.27	8,785.62
Reticulation	2,719.36	16,316.16
	Sub total	61,860.36
	Less credit for 1 lot	10,310.06
TOTAL AMOUNT PAYABLE		51,550.30

Developer Contributions:

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

Note 1 - The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.

Note 2 - 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.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

	\$ Per Lot
- Coordination and Administration	297.96
- Coffs Harbour Road Network	1,469.65
- Surf Rescue Equipment	76.51
- Regional Libraries	192.76
- Beach Protection Works	100.78
- Regional Open Space	324.08
- Coffs Harbour District Open Space	1,175.82

The Section 94 contribution is currently \$18,187.85 for the six-unit development.

This amount includes a one lot contribution rate credit of \$3,637.57.

Contributions have been imposed under the following plans:

- Regional, District and Neighbourhood Facilities 2004
- Coffs Harbour Road Network 2003
- Surf Rescue Equipment 2003

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

PED29 DEVELOPMENT APPLICATION 1398/05 - 10 DWELLINGS, FOUR COMMUNITY TITLE DWELLINGS AND 20 LOT SUBDIVISION - LOT 2, DP1077005, HALLS ROAD, NORTH BOAMBEE VALLEY

Purpose:

The purpose of this report is to advise Council on an application that seeks consent to subdivide the above property into 20 lots and construct 10 detached dwellings on individual lots, as well as four community title dwellings on one of the lots. The report recommends conditional approval of the application.



Figure 1 - Locality Plan

cont'd



Figure 2 - Site Plan

cont'd

Description of Item:

- **Existing Site and Development**

The 3,815 hectare site is situated at Halls Road, North Boambee Valley. The site is included within Stage 1 of the North Boambee Residential Release Area, and is situated adjacent to existing residential development located on Halls Road. The site is undulating with a watercourse located on the site.

- **Proposed Development**

The application is for stage one of a two-stage residential development which proposes to create 18 Torrens title lots ranging from 414m² – 800m², one residue lot of 1,622m² proposed as public reserve (containing the watercourse), and a lot of 2,787m² which will be the subject of a community title development into four housing lots.

Access is to be provided by way of a new road extending from Halls Road which will also provide for the connection to the residue lot and adjoining properties to the north and west once these properties are developed at some point in the future. A secondary road is also proposed which will provide access to the remainder of the lots within the site.

Sustainability Assessment:

- **Environment**

With regard to potential environmental impacts, the proposal has been assessed by the Department of Planning (DoP) in terms of works in proximity to a watercourse. Conditions have been imposed by (DoP) and no detrimental environmental impacts are foreseen if all conditions are adhered to.

As the property will be developed from vacant land to residential land, there will be an increase in activity in the area and therefore noise and other “urban” type impacts will be experienced in the area. The land is zoned for low density residential development and therefore an impact on the immediate area is naturally to be expected.

The site does not contain any mapped Koala habitat or significant vegetation. No vegetation is proposed to be removed, and extensive landscaping is to be planted on the site. The landscaping will consist of native plant species to be planted in the proposed park reserve and as feature trees.

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

- **Social**

The application received one submission during the advertising and notification period. This objector owns an adjoining property and while not against the development in principle, is wary of any potential impacts upon their land. The objector was concerned with a road proposal that would restrict access to their property, and also to those properties usually accessed via Patmos Drive. The proposal has since been amended so that such access is not restricted.

cont'd

The various issues raised by the objector will be further outlined later in this report.

There are no other significant social issues related to the proposal.

- **Economic**

The application involves no significant economic issues.

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 April 2005 with one submission being received objecting to the development. The issues raised by the objector will be discussed in detail later in this report.

The application was sent to the New South Wales Rural Fire Service (RFS) for comment. It has responded with a bushfire safety authority (approval) with conditions.

The application was also referred to the DoP for comment regarding works in proximity to a watercourse. Conditional approval was issued by DoP.

Advice has also been received from the following Council Departments:

- Strategic Planning (North Boambee Valley Release Area),
- Environmental Services (flora, fauna and contamination assessment),
- City Services (provision of access and services),
- Building (BCA issues), and
- City Parks (landscaping).

Statutory Requirements:

Section 79C of the Environmental Planning and Assessment (EP&A) 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 Low Density 2A Residential and the proposed land uses are permissible in the zone, with Council consent.

cont'd

Issues:

The application was notified and advertised in April 2005 with one submission received objecting to the development. The issues raised by the objector include the following:

The objector owns an adjoining property and whilst not against the development in principle, is wary of any potential impacts upon their land. The objector has proposed a number of "conditions" to be imposed upon the development which relate to fencing, stockpiling of materials, workers not entering upon land etc.

Whilst the neighbour's concerns are noted, other legislation and various requirements will address these concerns i.e.. Dividing Fences Act, Civil Law relating to trespassing etc.

The objector was also concerned with the road layout originally proposed in this application, which restricted options for accessing their property. This issue has since been resolved by Council's City Services Department and is considered to be satisfactory to all concerned.

Recommendation:

- 1. That Development Application 1398/05 for 10 dwellings, four community title dwellings and 20-lot subdivision on Lot 2, P 1077005, Halls Road, North Boambee Valley, be approved subject to standard and special conditions as appended to the report (Appendix B).**
- 2. That the objector to the Development Application be advised of Council's determination.**

Gina Vereker
Director
Planning Environment and Development

Section 79C Evaluation

Development Application No 1398/05

1. Matters for consideration

a. the provisions of:

i. any environmental planning instrument, and

City of Coffs Harbour Local Environmental Plan 2000

The site is zoned Residential 2A Low Density under LEP 2000. The proposed development includes the construction of 10 dwellings, four community title dwellings and 20-lot subdivision. This range of activities is permissible with consent in the 2A zone. Other relevant clauses of the LEP 2000 include Clause 12 – Koala Habitat, Clause 13 – Landform modification, Clause 14 – Services and Clause 23 – Potential Acid Sulphate Soils and flooding. These issues have been satisfactorily addressed in the development application.

North Coast Regional Environmental Plan

This development proposal accords with Section 43 of the North Coast Regional Environmental Plan.

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 such draft environmental planning instrument exists.

iii. any development control plan, and

The proposal does not fully comply with the requirements of the Low Density Housing DCP in terms of front boundary setbacks. Lots 9 – 15 & 17 encroach upon the front boundary setback requirements. The front setback proposed for Lot 14 is 3.0m, while the encroachments for the other lots ranges between 3.46m – 5.3m. The applicant claims that as they (and Council) encourage variety in the streetscape, the proposed variations contribute to such variety. The lots in question range from 414m²– 637m². The design of the dwellings and shape of the lots is such that in order to provide a usable private open space area at the side and rear of these lots, front boundary setback reductions are considered to be justified. The need for reduced setbacks was raised by the applicant in Technical Liaison Committee meetings on the proposal.

- 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 matters prescribed by the regulations that require consideration for this development.

- 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,**

Natural environment – the development proposes landform modification as well as works in close proximity to a watercourse. The mitigation measures contained in the Statement of Environmental Effects, as well as conditions from Integrated Development Authorities are such that the proposal will not impact detrimentally on the environment.

Built Environment – the proposed lot and building layout is not strictly in accordance with the North Boambee Valley Overall Concept strategy, however the layout is generally consistent with the pattern of development experienced in the area, and does not compromise further development in the valley.

Social Impacts – there are not likely to be any adverse social impacts in the locality from this development proposal. Social impacts were likely to have been assessed as part of the North Boambee Valley Release Area process.

Economic Impacts - there are also not likely to be any adverse economic impacts in the locality from this development proposal. Economic impacts were also likely to have been assessed as part of the Information Sheet process.

- c. **the suitability of the site for the development,**

The site is considered suitable for the proposed development. It is zoned for residential purposes, and is generally in accordance with the Overall Concept Plan.

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

One submission has been received as a result of notifying and advertising the application. Two submissions were received on the proposed layout prior to the DA being lodged, where Council informed surrounding property owners of the imminent proposal. The layout of the proposal appears to have taken those comments into account prior to lodging the DA. The submission received upon notification of the DA questions the road layout of the development in terms of local traffic conditions, in that access to their property (and surrounding properties to the north and west were then restricted and inconvenienced by the layout. The road network and layout has since been revised and the concerns of the objectors in this regard have been addressed. The same objector who owns an adjoining property is concerned with the potential impact on their continuing “rural residential” lifestyle. The objector has requested that the developer erect a secure fence between their property and the property being developed, to keep persons and pets out of their property.

- e. **the public interest,**

There are no matters of a public interest nature, which warrant discussion..

Development Application No. 1398/05

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 been issued and Council has been notified of the Principal Certifying Authority.
- 2 No works are to occur on the site unless an application for a Construction Certificate (Site Works) has been lodged for approval with Council's City Services Department.
- 3 Submission to Council for approval **prior to the issue of a Subdivision Certificate** of a Sediment and Erosion Control Plan. The controls of which are to be implemented during all development construction works and be maintained throughout the maintenance period.

Access and Services:

- 4 The following works being provided to serve all lots with the works conforming to the standards and requirements set out in Council's Technical Guidelines for Subdivision and Development.

Roads, drainage, concrete footpath, sewer and water; including:

- Reconstruction of Halls Road to suit the new intersection and to provide adequate sight distances.
- Construction of the drainage reserve including road batters and retaining walls in low maintenance materials to Council's satisfaction.

These works are to be completed OR other satisfactory arrangements for their completion are to be made with Council **prior to the issue of a Subdivision Certificate**.

No engineering works are to be undertaken until plans and specifications have been approved by Council. Plan submissions are to be accompanied by payment of the prescribed fee.

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.

- 5 The subdivision being provided with underground-reticulated electricity and telephone cables. The applicant shall provide a letter from NorthPower stating that satisfactory arrangements have been made for the supply of electricity and a letter from Telstra stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision. These letters are to be provided to Council prior to the issue of a Subdivision Certificate.

- 6 A water meter and sewer junction being provided within each lot. These services are to be provided **prior to the issue of a Subdivision Certificate** with the works conforming to Council's Technical Guidelines for Subdivision and Development.
- 7 Street lighting being provided to the requirements of North Power with all work being completed **prior to the issue of a Subdivision Certificate**.
- 8 Water and sewerage mains being extended to the subdivision from Council's existing mains at the developers cost **prior to the issue of a Subdivision Certificate** OR other arrangements satisfactory to Council being made for the extension of these services to the subdivision **prior to the issue of a Subdivision Certificate**.
- 9 All roads, water and sewerage mains being fully constructed to the boundary of all adjoining lots in accordance with Council's Technical Guidelines for Subdivision and Development.

Fill:

- 10 Contour plans indicating the location of proposed fill areas in the subdivision being submitted to Council for approval prior to commencement of work.

All fill is to be placed in accordance with the requirements of Council's Technical Guidelines for Subdivision and Development and the approved Sediment and Erosion Control Plan.

Prior to the issue of a Subdivision Certificate, a final contour plan is to be submitted to Council showing the location, depth and type of fill located on the site. Alternatively, where no fill has been placed on the site, a written statement to that effect is to be submitted to Council.

Developer Contributions:

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

Note 1 - The contributions are to be paid prior to release of any Subdivision Certificate unless other arrangements acceptable to Council are made.

Note 2 - 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.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

	\$ Per Lot/Dwelling
Co-ordination and Administration	297.96
Coffs Harbour Road Network	1,469.65
Surf Rescue Equipment	76.51
Regional Library Facilities	192.76
Beach Protection Works	100.78
Regional Open Space	324.08
Community Facilities (Sub District) New	522.78
Community Facilities District	249.64
Open Space (District) New	1,808.25
Open Space (Neighbourhood) New	67.60
Koala Management	1,400.62
Stormwater Management Catchment 1	2,683.88
Urban Planning Stage 1	470.75
Roads & Traffic Management	3,308.39

The Section 94 contribution is currently \$292,020.52 for the 20-lot subdivision and 4 Community Title dwellings.

Note, this amount includes a one lot and one community title dwelling contribution rate credit of \$26,547.32.

Contributions have been imposed under the following plans:

- Regional, District & Neighbourhood Facilities 2004.
- Coffs Harbour Road Network 2004.
- Coffs Harbour Local Roads, Trunk Drainage and Mines and Extractive Industries 1999.
- Surf Rescue Equipment 2003.
- North Boambee Valley 1999.

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

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 Subdivision Certificate (linen plan) unless other arrangements acceptable to Council are made.

Landscaping:

- 12 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.

In addition, the following requirements are relevant to the proposed public reserve:

- a The landscape works to be maintained for a period of six months with any faulty or damaged works replaced prior to Council taking over the maintenance of the park.
- b The stone signage wall shown in the reserve is to be removed and replaced with feature trees and low planting as an entry statement. Temporary sales signage is approved at this location. This temporary sales signage is to be removed prior to Council taking over the park. The Construction Certificate drawings are to include details for this proposed temporary sign.
- c The Spotted Gum and Blackbutt to be removed from the proposed planting in the park and replaced with Brush Box and Turpentine.
- d Removal of the Gynea Lilly and Eucalyptus Summer Beauty from the park to maintain a consistent character.
- e All turfed slopes, including the detention basin, are to be greater than 1:3 to allow for mowing. Slopes steeper than 1:3 are to be planted.
- f All street trees are to be planted at a pot size of at least 25 litres.
- g The plans submitted for Construction Certificate are to include detailed planting plans indicating the locations of plants and plant schedules indicating the pot size and quantities of plants. A Landscape Works specification with a detailed maintenance schedule is also to be included.

- h The detention area is to include more planting than rocks, with rocks used only to retain steeper areas.

Energy Efficiency:

- 13 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.

Signage:

- 14 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.

Flooding & Drainage:

- 15 The culvert & bridge shown over the gully / watercourse is to be designed such that it can convey the 1 in 100 year flooding event without detrimental impact on the adjoining properties. Design details and relevant information is to be submitted to Council for approval **prior to issue of the Construction Certificate for site works.**

Water & Sewerage Services:

- 16 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:

		Amount/unit	Total
		\$	\$
Works to satisfy increased demand within the area for 1 dwelling			
Water	Headworks	4,396.38	4,396.38
	Reticulation	1,667.59	1,667.59
Sewer	Headworks	1,449.34	1,449.34
	Reticulation	2,691.64	2,691.64
TOTAL AMOUNT PAYABLE			10,204.95

Dedication of Public Reserve:

- 17 The proposed public reserve area within this development being dedicated to Council at no cost to council and, **prior to the issue of a subdivision certificate**, the area being improved by the removal of dead and dangerous trees, weeds, rubbish and all plants on Council's list of undesirable species, and left in a usable and maintainable condition to the satisfaction of Council. These requirements are in addition to those contained in Condition No. 12 – Landscaping.

Bushfire Risk Control:

- 18 Roads within the subdivision are to comply with Section 4.3.1 of Planning for Bushfire Protection 2001.
- 19 Locations of fire hydrants are to be delineated by blue pavement markers offset 100 mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.
- 20 Staging of the development shall occur so temporary turning circles complying with Planning for Bushfire Protection 2001 are provided until the access road is extended for the next stage of development.

Department Planning Requirements:

General Conditions

- 21 Irrespective of the granting of this consent or approval by any other authority, work is not to commence in, or within a horizontal distance of 40m from the top of the bank of the watercourse, without the prior issue of a Part 3A permit by the Department of Natural Resources (DNR).
- 22 The Part 3A Permit will be issued upon notification to DNR comprising:
 - A copy of Council's Development Consent including all conditions of approval;
 - Plans and/or other documentation (1 copy) that satisfy the DNR General Terms of Approval and recommendations which are included in Council's consent conditions; and
 - The appropriate permit fee paid to DNR.
- 23 Work is to be carried out in accordance with drawings and any management plans required by these conditions and approved by DNR that will accompany the Part 3A permit.
- 24 Any Part 3A permit is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed in accordance with the permit conditions. Any application for renewal will be lodged at least one month prior to the permit expiry date.
- 25 Work shall not cause damage to, or increase erosion of the streambed or banks. The permit holder shall carry out any instructions given by DNR with a view to preventing degradation of the streambed or banks.
- 26 Any vegetation or other material removed from the area of works shall be disposed of in such a way that the material cannot be swept back into the stream during a flood.
- 27 Any stormwater outlet to the watercourse is to be designed and constructed to minimise any erosion or scour of the banks or bed of the watercourse.
- 28 All works proposed must be designed, constructed and operated so they do not cause erosion or sedimentation and do minimise adverse impacts on aquatic and riparian environments.

- 29 Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works to prevent sediment and dirty water entering the river system. These measures are to be in accordance with Council's requirements and follow best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1998) manual ("The Blue Book").
- 30 The excavation of soil/spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.
- 31 These conditions are issued with the proviso that operations are to be carried out on freehold land. Should operations be on Crown Land, these conditions are rendered null and void and the occupier of Crown Land should contact the Department of Lands.
- 32 Work is to be carried out in accordance with any conditions imposed by other government agencies, provided such conditions do not conflict with these conditions or the conditions in the Part 3A permit.
- 33 The permit holder and the owner or occupier of the land are responsible for any works undertaken by any other person or company on this site.
- 34 The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.
- 35 Any Part 3A permit granted is not transferable to any other person or company without the written approval of DNR and does not authorise works at any other site.
- 36 Any Part 3A permit granted does not give the holder the right to occupy any land without the consent of the owner(s) nor does it relieve the holder of any obligation that may exist to also obtain permission from local government and other authorities who may have some form of control over the site and/or the activities proposed.
- 37 Work as executed survey plans of a professional standard shall be provided to DNR upon request.
- 38 If, in the opinion of a DNR officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.
- 39 If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and/or as directed by DNR. If any breach of the permit conditions requires a special site inspection by DNR, then the permit holder shall pay a fee prescribed by DIPNR for this inspection and all subsequent breach inspections.
- 40 If works are to cease prior to completion, DNR must be notified in writing one month in advance of the cessation of the operation.
- 41 Any changes to plans/drawings are to be prepared in consultation with, and will require the approval of DNR.

Special Conditions

- 42 All imported filling materials shall be free from any contamination.
- 43 Proposed rehabilitation works within the unnamed creek / drain shall be submitted to DNR for approval prior to the issue of a Part 3A permit.

- 44 A detailed Engineering Plan of the unnamed creek crossing shall be submitted to DNR for approval.
- 45 Stormwater discharge shall be connected to the street drainage system.
- 46 No operations shall be undertaken outside the area shown on the application.
- 47 Works as executed survey plans of a satisfactory standard shall be provided to the department on request.
- 48 All proposed works and operational management shall be in accordance with Council's consent conditions.

CITY BUSINESS UNIT REPORT

B31 ACQUISITION OF LAND FOR OPEN SPACE PURPOSES - LOT 2 DP 853822, BUCCA ROAD, NANA GLEN RAIL

Purpose:

Report seeking Council approval for the acquisition of land at Bucca Road, Nana Glen Rail for open space purposes.

Description of Item:

Council has recently completed negotiations with the owner of Lot 2 DP 853822 regarding its acquisition for open space purposes. The location is shown clearly on the plan attached to this report.

The land will compliment Council's adjoining property known as Lot 1 DP 853822 which is used for a local park. Council also owns land on the southern side of Bucca Road which has been acquired in recent years for sporting fields.

The land being purchased has a total area of approximately 8,797 square metres and is a narrow strip having a long frontage to Bucca Road and a rear boundary fronting the Orara River. The land is cleared, however is highly constrained by flooding. The land has a restriction on use in favour of Council which prohibits the construction of a dwelling on the property and is zoned 7A Environmental Protection under Coffs Harbour LEP 2000.

Negotiations have proceeded smoothly with the owners accepting a price of \$15,000 and the transaction will not be subject to GST.

Sustainability Assessment:

- **Environment**

The land is required to provide for open space and environmental protection. The land is cleared and no significant loss of vegetation will result from the transfer and its future proposed use.

- **Social**

The land when acquired will provide important open space for the local area and will compliment other nearby land owned by the Council.

- **Economic**

Broader Economic Implications

There will be no implications.

cont'd

Management Plan Implications

An allocation of \$14,500 has been included within the current budget approved by Council. Total costs are estimated at \$15,500 and therefore an additional \$1,000 is required to complete the transaction.

Council's Valuer has negotiated the acquisition and considers the agreed price to be fair and reasonable to both parties.

Issues:

There are no significant issues associated with this matter. Council has an opportunity to acquire the land in favourable circumstances and should proceed.

Implementation Date / Priority:

The matter will be actioned immediately.

Recommendation:

- 1. That Council proceed to acquire Lot 2 DP 853822 shown on the plan attached to this report for an amount of \$15,000. The transaction does not attract GST.**
- 2. That the land being acquired by Council be classified as operational land under the Local Government Act, 1993.**
- 3. That all necessary documents be executed under the Common Seal of Council.**
- 4. That each party be responsible for their own costs in relation to this matter.**

Colin Spring
Acting Director
City Business Units

Attachments:

