



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
(CITY BUSINESS UNITS COMMITTEE)
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
2 MARCH 2006

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COFFS HARBOUR CITY COUNCIL
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(CITY BUSINESS UNITS COMMITTEE)
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Mayor and Councillors

GENERAL MANAGER'S REPORT

2 LAND AND ENVIRONMENT COURT APPEAL ON DEVELOPMENT APPLICATION NO 1805/05 - BROTHEL - LOT 6, SP 54097, UNIT 6, 25/27 HURLEY DRIVE, COFFS HARBOUR

Purpose:

To advise Council of proceedings that have been commenced in the Land and Environment Court against Council's "deemed refusal" of Development Application 1805/05 for a Brothel at Lot 6, SP 54097, Unit 6, 25/27 Hurley Drive Coffs Harbour.

Description of Item:

On 15 December 2005 Council resolved as follows:

1. That Development Application No 1805/05 for a Brothel - Lot 6, SP 54097, Unit 6, 25-27 Hurley Drive, Coffs Harbour be deferred.
2. That Council enter into discussions with the applicant with regards to a more suitable location, preferably a stand-alone site.
3. That Council prepare a set of suitable guidelines for the establishment and location of legalised brothels within the Coffs Harbour Local Government Area.

Council wrote to the applicant of this proposal, requesting a meeting to enable discussion on the matter. The applicant did not take up Council's offer.

Since Council's offer, an appeal has been lodged with the Land and Environment Court of New South Wales against Council's "deemed refusal" of the application. Provisions of the Environmental Planning and Assessment Act allow appeals to be made where no decision has been made on an application within (in this case) 40 days. Appeals of this nature are commonly referred to as an appeal against a "deemed refusal".

Cont'd

2 Land And Environment Court Appeal On Development Application No 1805/05 - Brothel - Lot 6, Sp 54097, Unit 6, 25/27 Hurley Drive, Coffs Harbour ...(Cont'd)

Council's legal advisors are now representing Council in this matter and have provided some advice on the matter. A copy of their advice is attached.

In light of this advice, the report of 5 December 2005 is further submitted for Councillors' consideration.

Recommendation:

- 1. That the advice of MBT Lawyers, dated 22 February 2006 be noted.**
- 2. That Development Application No 1805/05 for a Brothel - Lot 6, SP 54097, Unit 6, 25/27 Hurley Drive, Coffs Harbour, be approved subject to technical conditions as appended to this report.**

Stephen Sawtell
General Manager

Attachments:

APPENDIX A

**Development Application No. 1805/05
Schedule of Conditions**

Development in accordance with development application 1805/05:

1. This development is only to be carried out in accordance with development application 1805/05 and all development descriptions and documents contained therein.

Construction Certificate:

2. No building work is to occur unless a Construction Certificate has been issued for the work and Council has been notified of the Principal Certifying Authority.

Building Code of Australia:

3. All building work is to be in accordance with the Building Code of Australia.

Access and Facilities for Disabled Persons:

4. Access and facilities for disabled persons being provided in accordance with Council's Access and Mobility Development Control Plan, Building Code of Australia and Australian Standards, prior to occupation of the building.

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

Occupation:

5. The development not being occupied until the approval of the Principal Certifying Authority has been obtained through issue of an occupation certificate for the development.

Application for Sanitary Plumbing and Drainage:

6. 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. This is to be submitted to Council and approved prior to issue of the construction certificate.

Details of external building finish:

7. Details of the proposed external finish to the building being submitted to Council, and approved, prior to issue of the Construction Certificate. The details are to include any painting, lighting and signs proposed for the frontage of the site.

The external building finish should

- be similar to adjoining buildings
- not be painted with bright or visually dominant colours
- provide lighting for security, surveillance and access and not for identification of the premises. The lighting provided should be similar to that provided for existing buildings

- have discreet signs that allow for identification of the building only

The building is to be finished in accordance with the approved arrangement prior to occupation of the building.

No other external building finish is to be provided to the building (following occupation) unless Council approval for the alternative treatment is first obtained.

Construction Signage:

8. 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) is to be erected in a prominent position on site, prior to, and at all times during, construction work on site. The sign must also state that unauthorised entry to the site is prohibited.

Water & 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.

CITY BUSINESS UNITS DEPARTMENT REPORTS

B4 PURCHASE OF LAND FOR COUNCIL DEPOT - PACIFIC HIGHWAY, WOOLGOOLGA

Purpose:

Report seeking Council approval for the acquisition of land at Woolgoolga for a Combined Services Works Depot.

Description of Item:

Council has recently held discussions with the Roads and Traffic Authority (RTA) regarding a parcel of land owned by the RTA to the north of Woolgoolga on the Pacific Highway. The land is required by the Council for a works depot to be used by the Parks Branch and City Services Department to facilitate construction and maintenance requirements in the locality.

The land which is described as Lot 5 in Deposited Plan 873485 is located just north of Poundyard Creek on the Pacific Highway at Woolgoolga and is shown on the plan attached to this report. The land is 1.77 hectares in area and is zoned 5A Special Uses Depot under the Coffs Harbour Local Environmental Plan 2000. The property is currently not occupied, however has been used for an RTA depot in recent years. The property is now surplus to the RTA requirements.

The land has a two metre high cyclone wire mesh security fence along the northern boundary and part east and western boundaries. The site is generally cleared apart from two large tallwood trees near the northern boundary. The southern section of the site is heavily grassed and timbered along Poundyard Creek which forms the boundary.

Indications are that the site is flood prone, however the extent and depth of the 1% probability flood event is unknown. This will not restrict to any large extent Council's proposed use of the site.

The property has frontage to the Pacific Highway, however vehicular access to the site is restricted by the RTA. This situation will in all likelihood change once a highway bypass of Woolgoolga is completed.

Council has agreed in negotiations with the RTA that the price for the land is to be based on the hypothetical scenario that the property currently has vehicular access to the highway.

The question of access is not a major detriment for Council as it controls land directly adjoining and to the north which comprises sports fields and tennis courts. Access can be gained through this land to the site without hindering the use of the adjoining land for sporting purposes.

The RTA have had a Valuation completed by the Department of Commerce on the hypothetical basis the land has access to the highway. This Valuation estimated the land's value to be \$130,000.

Council has agreed to the amount of \$130,000 (exclusive of GST) for the purchase of the land.

Cont'd

B4 Purchase Of Land For Council Depot - Pacific Highway, Woolgoolga ...(Cont'd)

Sustainability Assessment:

- **Environment**

The purchase of the land will have no environmental impact.

- **Social**

The purchase of the land will have little social impact. It will assist Council in the construction and maintenance of facilities in the area.

- **Economic**

Broader Economic Implications

The purchase of the land will have no major implications.

Management Plan Implications

The costs to Council of the land acquisition will be in the vicinity of \$131,000 inclusive of legal expenses. It is intended to fund this amount from the current Management Plan which has an approved allocation of \$150,000 for the purchase of the property. The remaining \$19,000 is to be applied to improvements to the property to make it operational.

Issues:

Without the purchase of this land Council operations in the locality will be adversely affected and require equipment and materials to be located and moved from more distant depots. This will lead to greater costs and time inefficiencies.

The depot is ideally located for current and future operations, now that Council's boundary extends to Red Rock and the Corindi Range in the north.

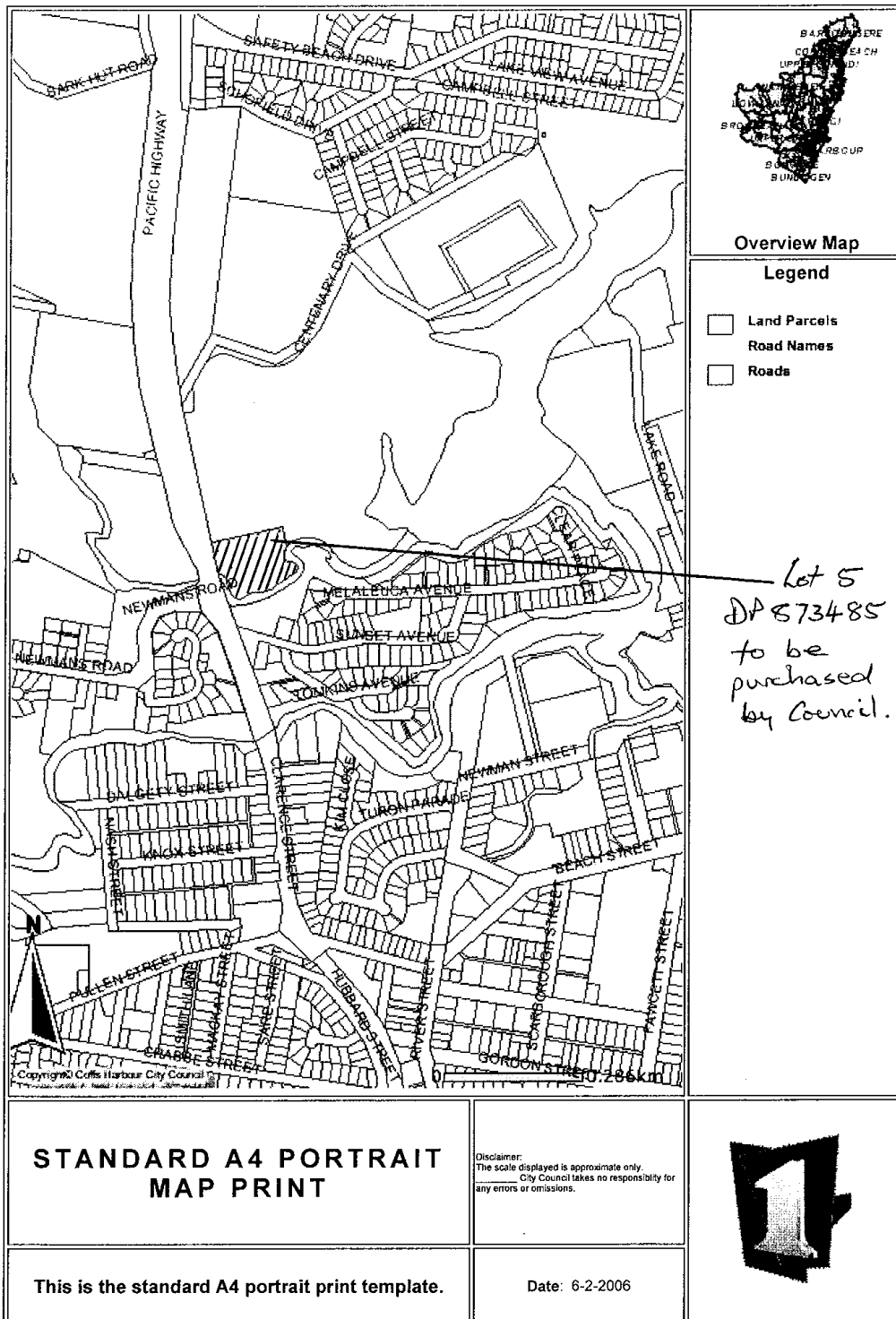
Implementation Date / Priority:

The matter will be actioned immediately following Council's resolution.

Recommendation:

1. **That Council proceed with the acquisition of the land shown on the plan attached to this report, being Lot 5 DP 873485 on the terms contained within this report.**
2. **That the land upon Council's acquisition be classified as operational under the provisions of the Local Government Act, 1993.**
3. **That all necessary documents be executed under the common seal of Council.**

Attachments:



B5 LEASE OF LAND FOR NEW BUSHFIRE SHED AT CORAMBA

Purpose:

To obtain approval to enter into a lease of land from the Australian Rail Track Corporation to provide a site for the erection of a new bushfire shed at Coramba.

Description of Item:

A few years ago it was identified that the current bushfire premises located in a laneway off Dorrigo Street at Coramba on a small block of 590m² were inadequate.

A search was commenced to find a new location in the vicinity on which to build a new facility. A team was established which after considerable work identified that the only site that best met the criteria was land immediately adjacent to the North Coast Railway on the eastern side of the Orara River. This general area had also been discussed as suitable for the establishment of a park/community precinct following the construction of the new bridge over the Orara River. The construction of a new bushfire shed (subject to taking into account heritage issues) is seen as fitting in with this concept.

In December 2003 Council approached the State Rail Authority about leasing an area of approximately 1200m². Negotiations proceeded slowly and in October 2004 Council was informed that as from 4 September 2004 the Australian Rail Track Corporation (ARTC) had taken over the management of the NSW Railway Corridor under a long term lease arrangement.

Council immediately corresponded with ARTC and agreement (subject to Council approval) has been reached to lease the site indicated on the plan attached to the confidential section of the report.

The lease contains a confidentiality clause and therefore the terms of the lease are contained in the confidential attached to this report.

Sustainability Assessment:

- **Environment**

Entering into the lease will not have any environmental impacts. Environmental issues will be addressed when a development application is lodged for a new bushfire shed.

- **Social**

Securing the land will enable a new bushfire shed to be erected, which is a very important community asset for the Coramba area.

- **Economic**

Broader Economic Implications

The new facility will generate employment during construction and assist in protecting community assets.

Cont'd

B5 Lease Of Land For New Bushfire Shed At Coramba ...(Cont'd)

Management Plan Implications

The payment of the annual rental (as disclosed in the confidential attachment) and rates will require an increase in the budget in this and subsequent years.

Council will also be responsible for paying 12.3% of the construction cost of the new facility. There are sufficient funds in the Rural Fire Service Reserve to cover this amount. Also once the new building is completed the old premises will be sold with the proceeds being held in the reserve.

Consultation:

There has been consultation with the Rural Fire Service (and its members) and the local community through the team that investigated and selected the subject site.

Related Policy and / or Precedents:

Council is responsible for supplying land for Bush Fire premises.

Issues:

Refer to confidential attachment.

Implementation Date / Priority:

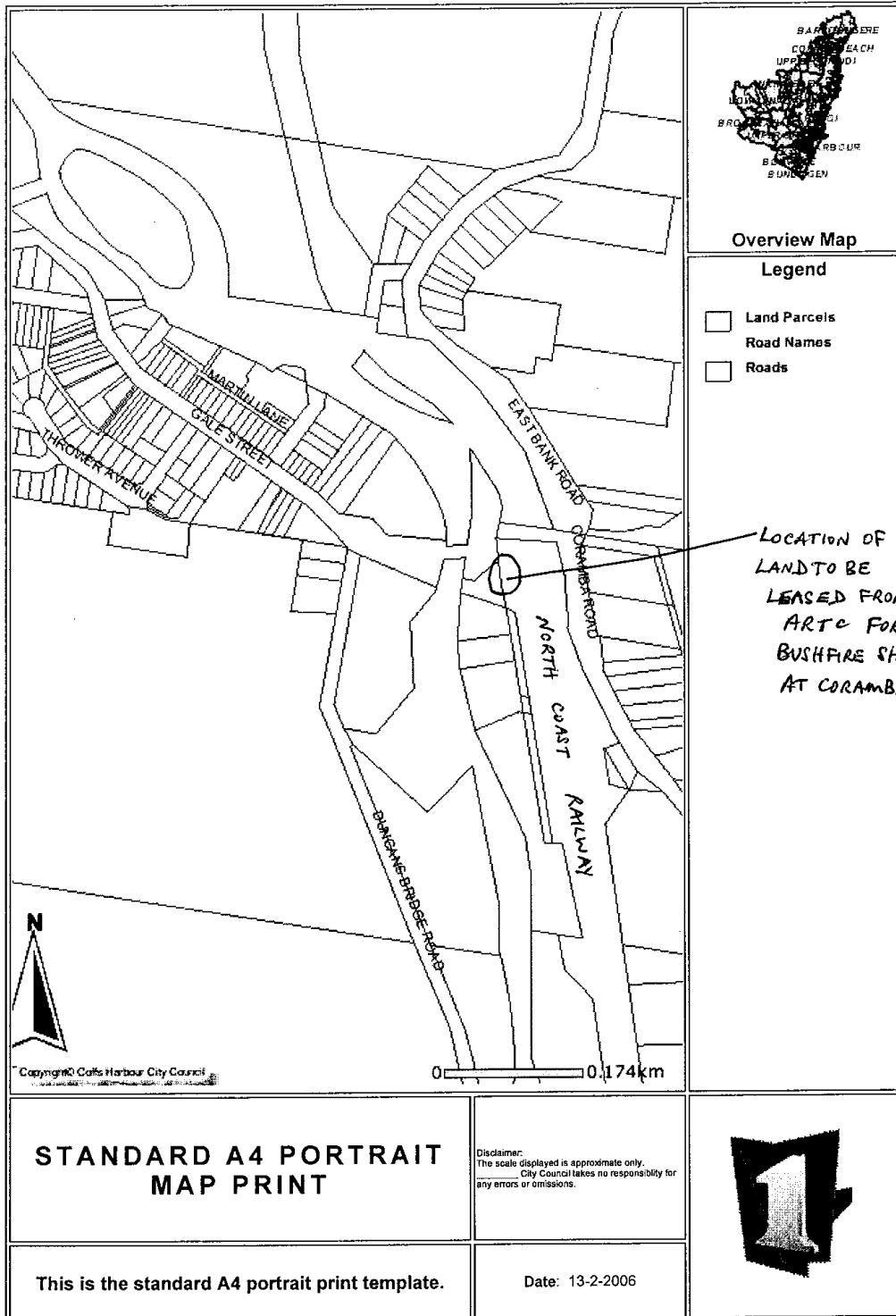
The matter will be acted upon immediately.

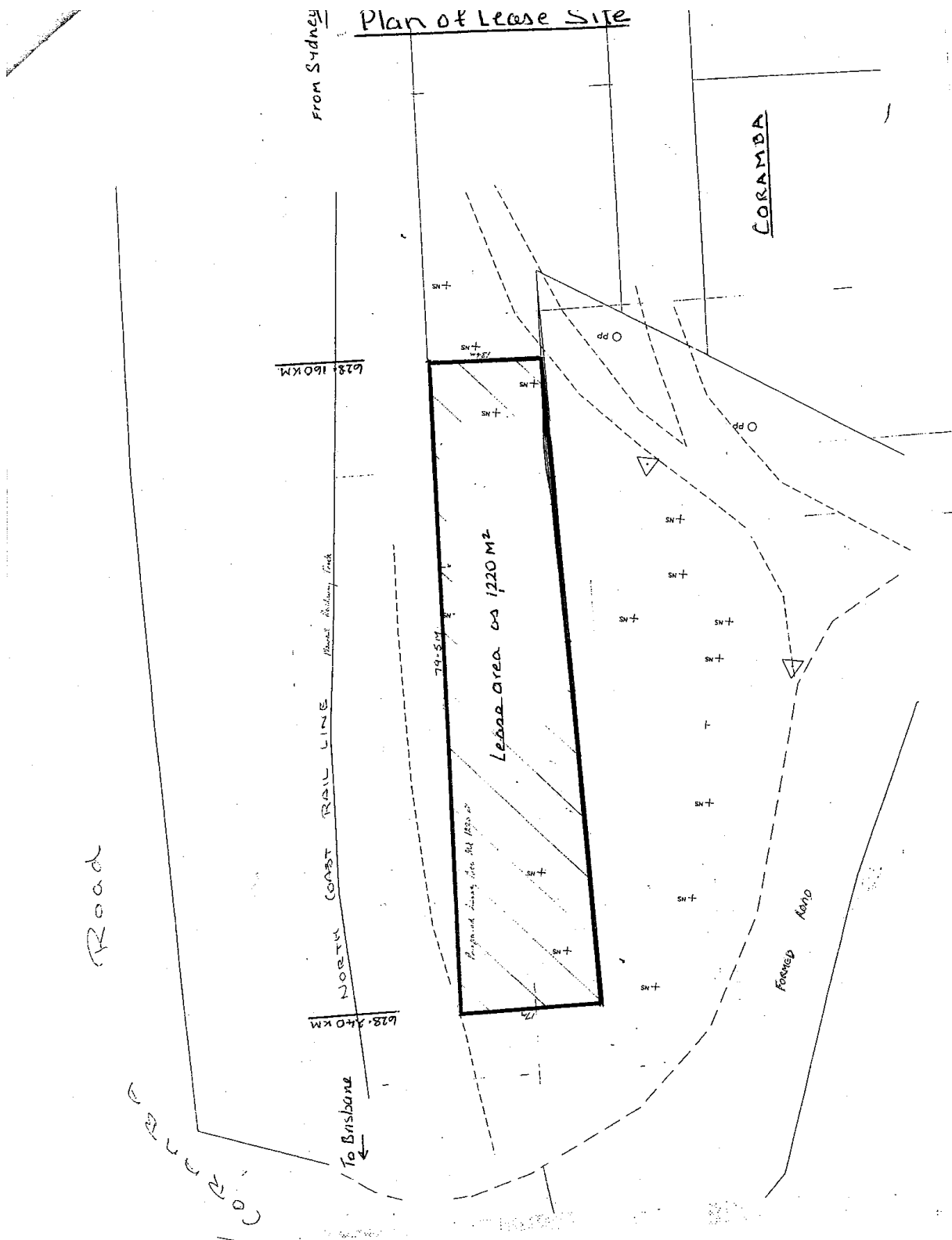
Recommendation:

- 1. That Council enter into a lease of land at Coramba from the Australian Rail Track Corporation in the location and on the terms and conditions contained in the confidential section of the report, for the purposes of providing a site for a Bush Fire Shed.**
- 2. That any necessary documents be executed under the Common Seal of Council.**

Colin Spring
Acting Director of City Business Units

Attachments:





PLANNING ENVIRONMENT AND DEVELOPMENT REPORTS

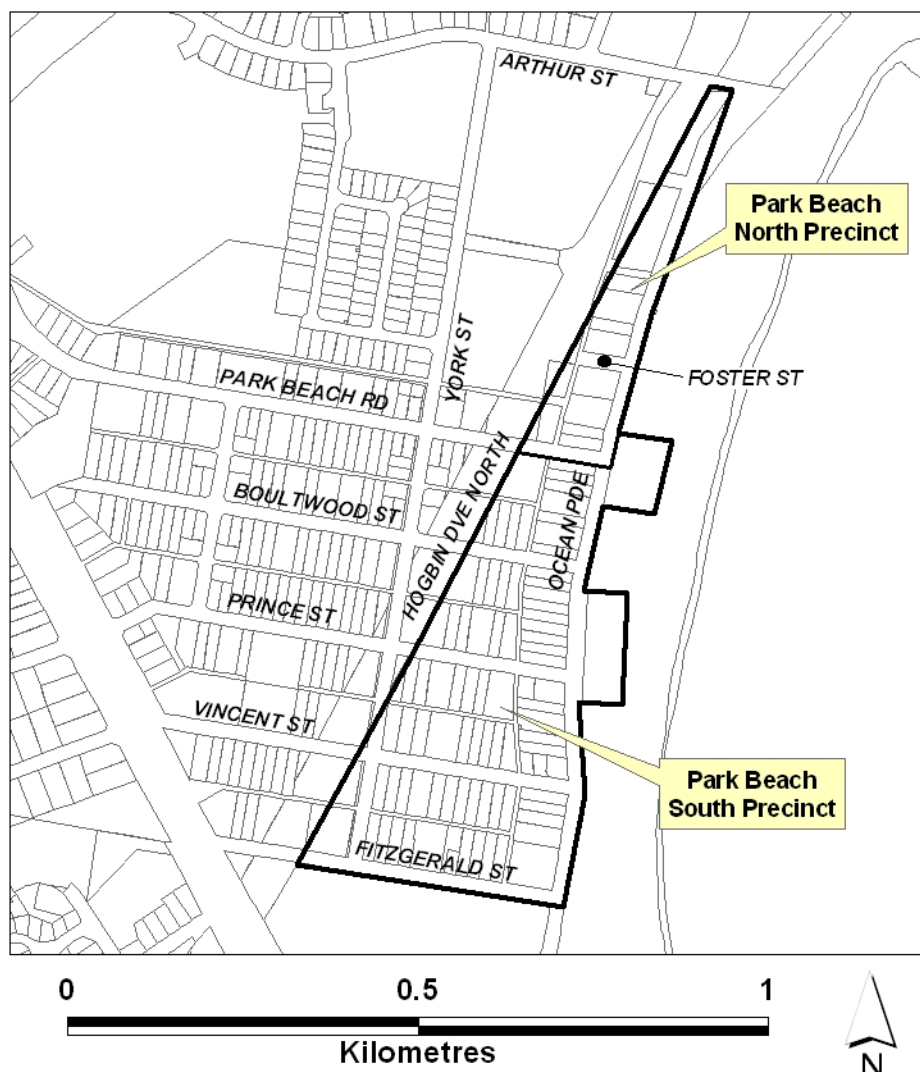
PED6 DRAFT PARK BEACH DEVELOPMENT CONTROL PLAN

Purpose:

The purpose of this report is to present to Council the amended Park Beach Development Control Plan (DCP). Council was presented with this Draft DCP at its meeting on 16 February 2006. Council resolved that the Draft DCP be reported to the next meeting of Council following suggested amendments. The report recommends that Council exhibit the Draft Park Beach DCP to seek input from the community and relevant government agencies. The Draft Park Beach DCP is provided separately to this report.

Description of Item:

The current version of the Park Beach DCP came into force on 1 February 2003. The DCP contains a Planning Strategy and development controls for the Park Beach South Precinct (see map below). This report applies to that precinct, and an expanded area, being the primarily residential area north of Park Beach Road. This area is the Park Beach North Precinct located on the following map.



Ped6 Draft Park Beach Development Control Plan ...(Cont'd)

The Draft DCP does not apply to areas west of Hogbin Drive North to the Pacific Highway. Planning for that area will be carried out in the near future. Council has also received a Development Application for 85 Ocean Parade (North Precinct) under which no planning controls currently exist. Council has also held recent discussions with the owners and potential developers at 111 Ocean Parade (adjacent to Pacific Towers). The Draft DCP therefore needs to progress as a matter of priority.

Some modifications have been made to the existing DCP applying to Park Beach South, while proposing a strategic Masterplan and design controls to Park Beach North. The Draft DCP features an overall Masterplan for the Park Beach locality (both precincts) supported by design controls for development proposals in the locality.

The Draft DCP also removes any ambiguities and/or terminologies such as "should", "may" and "generally" when applying planning controls. This has been brought to light as a result of recent Land and Environment Court cases.

Report:

Park Beach is one of Coffs Harbour's primary coastal recreation places. The locality is historically a tourism-based locality, reflecting its zoning as 2E Residential (Tourist) land by Coffs Harbour City Local Environmental Plan (LEP) 2000, and its subsequent development. The Draft Park Beach DCP has been prepared to provide for continued residential and tourism development of the locality, particularly sites which are likely to be redeveloped.

Sustainability Assessment:

The Draft DCP has addressed the following points regarding sustainability. Some will be discussed in greater detail later in this report.

- **Environment**

The following features of the Draft DCP have addressed Environmental Sustainability:

- Environmental/Tourist focused development which is compatible with, and sensitive to, the qualities of the natural setting of the locality;
- Addresses the possibility of developments to overshadow Park Beach;
- Preservation and enhancement of existing native vegetation;
- On-site soil and water quality management methods;
- Retention of native vegetation for use as habitat, privacy screening and deep soil planting zones within proposed developments.

Cont'd

- **Social**

Social sustainability is addressed by:

- Neighbourhood and precinct planning by the inclusion of Masterplans for the Park Beach locality;
- Building design which allows a variety of uses which are compatible with the locality, promoting a sense of identity and belonging for all users;
- Provision of pedestrian, vehicular and cycleway links to the Jetty Area, Park Beach Plaza and Macauleys Headland;
- Retention of beach access points and new playground facilities near Park Beach Bowls Club;
- Encourage appropriate commercial enterprises (e.g. cafes and restaurants);
- Enhanced streetscapes which provide an appropriate and safe setting which are compatible with mixed use developments; and
- Planning controls are designed to ensure that proposed developments do not dominate the streetscape.

- **Economic**

Broader Economic Implications

Economic sustainability is addressed by:

- Maximising the capability of the locality to provide quality accommodation for residents and visitors to Coffs Harbour;
- Improved amenity of the area will promote economic growth by increasing community activities and facilities; and
- Employment opportunities are likely to be generated by provision of services and facilities.

Management Plan Implications

The planning review of the Greater Park Beach area is included in Council's current Management Plan.

Consultation:

The following points are described in the Draft DCP and are largely self-explanatory:

- **Design Principles - State Environmental Planning Policy (SEPP) 65**

SEPP 65 - Residential Flat Code applies to residential development proposals. Professional design consultants must prepare proposals as part of compliance with SEPP 65.

Cont'd

- **The Building Sustainability Index (BASIX)**

The NSW Government introduced BASIX on 1 July 2005. BASIX aims for new developments to:

- use 40% less mains supply water; and
- produce 25% less greenhouse gas emissions (increasing to 40% from July 2006).

The Draft DCP provides an overview of BASIX and the procedure required to obtain compliance with BASIX regulations.

- **SEPP 71 (Coastal Protection)**

Generally, SEPP 71 applies to the Draft Park Beach DCP in the following ways:

- The Coastal Reserve, part of Park Beach Bowling Club and part of the 'Hoey Moey' are identified as being within 100m of the Marine Park and Beach and are classified as a 'sensitive coastal location'. All development applications in these areas are to be referred to the DoP for comment.
- The policy determines that structures higher than 14m to be 'significant coastal development'. DoP concurrence is currently required for buildings over 13m in height. The DCP may allow delegation of powers to Coffs Harbour City Council upon adoption of the DCP.
- Any tourist facility proposed is also deemed to be 'significant coastal development' and the DoP is the consent authority.

- **North Coast Regional Environmental Plan (NCREP) 1988**

Under the provisions of NCREP 1988 and upon recent advice received from the DoP, overshadowing of Park Beach before 3.00pm (ESDT) will not be supported by the DoP, and proponents must demonstrate that such overshadowing from building proposals will not occur (refer - Communication and Consultation of the Draft DCP).

Features of the Draft DCP:

- **Overall and Precinct Masterplans**

The Draft DCP provides a Masterplan for the Park Beach locality. The Masterplan, which is expanded and explained in greater detail in the individual precinct controls, outlines strategic directions for the Park Beach locality based on objectives. The objectives and subsequent actions are described as 'triple-bottom-line' (Environmental, Social and Economic) elements.

Cont'd

- **Streetscape**

The Masterplan is underpinned by a streetscape design which aims to complement likely uses, and for any developments to be designed to be compatible with the streetscape rather than dominate the streetscape. This will allow:

- greater neighbourhood amenity;
- more sensitive interaction between the built environment, the street, and the people;
- improved pedestrian access and safety; and
- more parking

Communication and Consultation:

- **Public Consultation**

The Masterplan for the Park Beach South precinct was exhibited during preparation of the current Park Beach DCP. The revised Masterplans for both precincts, and all associated design and planning controls, will be exhibited to obtain community feedback in accordance with the provisions of NSW Planning legislation (see Recommendation), the Council's Notification DCP.

- **Internal Working Group**

The Draft DCP has been produced with input from Council's

- Strategic Planning Branch;
- Building and Development Branch;
- City Parks and Reserves;
- City Services

- **Consultant Advice: Urban Design**

Council engaged Urban Design Consultants Pittendrigh Shinkfield Bruce (PSB) to provide advice to the Internal Working Group regarding building design controls. The recommendations of PSB have been included in the planning controls.

Design Guidelines:

- **Building Setbacks**

Building setbacks are explained in the document. In summary, the setbacks are as follows:

- **South Precinct:** Front boundary setback is six metres, side and rear setbacks are six metres with an encroachment to three metres permitted for buildings of less than six metres in height.

Cont'd

- **North Precinct:** The setbacks are variable (three and six metres) which allow for the provision of Deep Soil Zones and landscaping throughout the precinct.

- **Building Heights**

- **South Precinct:** In the Southern precinct, the site on the corner of Park Beach Road and Ocean Parade has a maximum height of 21 metres, reinforcing its status as a gateway location. Other lots which adjoin Park Beach Road and Hogbin Drive North have a maximum height of 18 metres. The remainder of the precinct allows for a maximum height of 12 metres.
- **North Precinct:** The site on the north western corner of Park Beach Road and Ocean Parade has a maximum height of 21 metres, being a gateway site. The remainder of the precinct allows for a maximum building height of 18 metres, which aims to protect local views inland from Park Beach, and views to the Jetty area from the Diggers Beach/North Coffs Harbour areas. Views within this precinct are also protected by existing vegetation adjacent to Hogbin Drive North.

The development site at 111 Ocean Parade (south of Pacific Towers) has a maximum building height of 30 metres, which is consistent with developments in adjoining allotments. This height limit only applies to 111 Ocean Parade.

- **Density**

The Draft DCP seeks to allow for a mix of residential densities, which reflects the tourist/mixed use nature of the Park Beach locality. The proposed densities for each area includes an explanation of dwelling sizes and site area requirements for such dwellings. The Draft DCP allows for a mix of dwelling sizes. Any proposals which involve a mix of dwelling sizes. Any proposals which involve a mix of dwelling sizes will be determined on their merits.

- **Design**

The Draft DCP lists design principles with which proponents must comply. The design principles aim to ensure that developments are consistent with the character of the beach and coast, and will contribute to the build neighbourhood in a positive way.

- **Car Parking Provisions**

The Draft DCP includes reference to provisions for car parking, which Council has previously adopted in its Off-Street Car Parking DCP.

The Draft DCP has also made provision to construct on-street car parking in Ocean Parade (North Precinct) and on Foster Street, which can also be used as a pedestrian link through the precinct. This on-street parking will assist users of the beach, reserve and mixed-use developments on Ocean Parade.

It is intended that the parking areas and streetscape be funded by a Developer Contributions Plan for Park Beach which will be prepared and presented to Council at a future meeting.

Cont'd

- **Signs**

The Draft DCP includes controls for signs, with which proponents must comply. The guidelines have been previously adopted by Council in its Signs DCP, and are included as part of this document.

Water Quality:

- **Drainage**

The Draft DCP addresses inter-allotment drainage requirements, stormwater connection requirements and incorporation of Water Sensitive Urban Design (WSUD) principles in development proposals in accordance with Council's policy.

- **Sediment and Erosion Control**

Proposals that involve earthworks or removal of vegetation will require a Sediment and Erosion Control Management Plan, to be adhered to during the construction of the proposed development.

- **Deep Soil Zones**

Deep Soil Zones are parts of allotments which are not to be built on and contribute to:

- natural on-site drainage;
- privacy;
- shade;
- habitat for native fauna; and
- reduction in stormwater runoff.

Conclusion

This Draft Park Beach DCP provides an overall Masterplan and comprehensive controls for the Park Beach Precincts, which is designed to allow the area to develop to its maximum potential through Planning Controls which contribute to the amenity and sustainability of the area, and for the benefit of the greater Coffs Harbour community.

Implementation Date / Priority:

The Draft Park Beach DCP will be placed on public exhibition as soon as possible following Council's resolution of the recommendations of this report.

Recommendation:

That Council resolve to exhibit the Draft Park Beach Development Control Plan for 28 days in accordance with the provisions of Division 2, Clause 18 of the Environmental Planning and Assessment Act Regulations 2000.

Mark Salter
Acting Director of Planning Environment and Development