

Minutes for this meeting will be confirmed at the Planning, Environment & Development Committee Meeting to be held in the Council Chambers, Council Administration Building, on 18 May 2006 commencing 5pm.



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

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COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
(CITY BUSINESS UNITS COMMITTEE)
4 MAY 2006

Mayor and Councillors

CITY BUSINESS UNITS DEPARTMENT REPORTS

B9 ENCROACHMENTS ONTO LANEWAY AT CORAMBA

Purpose:

To resolve issues in relation to encroachment onto a laneway at Coramba.

Description of Item:

This report is in respect to an unnamed laneway at Coramba as indicated on the plan attached to this report. The lane runs south off Dorrigo Street and provides rear access to properties fronting the western side of Gale Street and the eastern side of Thrower Avenue. It is also the access to the current Bush Fire Shed.

The strip of land that comprises the lane was part of a subdivision carried out by the Gale family in the early 1900's. At the time the subdivision plan was registered, the land did not become a public lane as was the intention.

Over the years the northern section of the lane has been used for access purposes, while the steeper southern section was not used for access and various land owners had encroachments onto the land.

Recently Council took legal steps to bring the land under Council's control as a public road (lane). It did so for two reasons. Firstly, with negotiations for the site of the new Bush Fire Shed nearing completion, it wished to ensure that the existing premises had legal access to enable them to be sold in the future.

Cont'd

B9 Encroachments Onto Laneway At Coramba ...(Cont'd)

Secondly, Council had (in writing) incorrectly advised (prior to purchase) the purchaser of 47 Gale Street, (Mr Felton) in 2003 that the land was in fact a public lane that would be available to him for rear access to the property. Upon finding out after completing the purchase that this was not in fact the case, his Solicitor had indicated that unless Council could remedy the situation then his client would seek damages.

Over time some of the encroachments had been removed and when the land came under Council's control in December 2005, with it came two substantial encroachments at the southern end (bottom) of the lane. The properties concerned are No 18 Thrower Avenue (Ms West and Mr Britten) and No 16 Thrower Avenue (Mr and Mrs Collins). These two properties are directly behind No 47 Gale Street (Mr Felton). The encroachments are shown on the plan attached to this report. They effectively fence the laneway into the backyards of the adjoining properties.

The relationship between the two Thrower Avenue property owners and Mr Felton is strained and Council has received correspondence accordingly.

As soon as control over the land legally passed to Council, Mr Felton approached Council to have the encroachments removed, so he could exercise his legal right to access the laneway for the purpose of carrying out an extension underneath the dwelling on the property. This was despite the fact that Mr Felton's property has 20 metres of unobstructed access to the laneway at the rear. The property also has access via the laneway (unformed) on its side boundary, but this part of the laneway is narrow and not considered suitable as access for the proposed building works.

Neither of the current owners of No's 16 and 18 Thrower Avenue were responsible for the encroachments onto the laneway. They were there long before the properties were purchased by the Collins' in 1996 and by West and Britten in March 2002. West and Britten did not know of the encroachment until informed by the Feltons in June 2003.

Although the areas enclosed appear small, they are of significance as Thrower Avenue properties are quite small in area. This is particularly so in the case of 18 Thrower Avenue. The house is set well back on the block and without the laneway land, would have virtually no backyard. The loss of the laneway land would reduce the value of the property as it would have virtually no amenity. Also the owners have a 4½ year old special needs child who needs the yard area for play.

The effect on 16 Thrower Avenue if the enclosed land was lost is not quite as severe, as the house is not as close to the rear boundary. Its amenity would however still be compromised.

Both of the Thrower Avenue owners have indicated their desire and willingness to purchase the enclosed area.

Council has no intention of carrying out any works on the lane. If the encroachments are removed it would not be used for through traffic due to topography, formation and the width of the access way leading to Gale Street. It could however, be used by pedestrians.

If Council wished to sell the enclosed areas to the adjoining owners it would first have to formally close those areas as roads.

Now that Council is the owner of the laneway and is aware of the encroachments it has to resolve the issue.

Cont'd

Sustainability Assessment:

- **Environment**

There are no environmental impacts in relation to the decision to be made.

- **Social**

The social impacts on the three property owners directly involved will depend on Council's decision in the matter. A decision to remove the encroachments would adversely affect the owners of 16 and 18 Thrower Avenue.

- **Economic**

Broader Economic Implications

If Council issued an order to remove the encroachments, it would be at the encroaching owners' cost. There would also be a reduction in the value of the properties.

Management Plan Implications

There are no direct impacts on Council's budget unless it gets involved in a legal dispute in relation to the matter. If sections of the lane were closed and sold then Council would receive income.

Consultation:

There have been several face to face discussions with the three land owners that are directly involved. Also a survey with a covering letter was sent out to the 16 land owners who have a frontage to the laneway to obtain their view on the issue. The survey asked the owners as to whether they were happy for the encroachments to remain, they would prefer for them to be removed, or they would be happy with either outcome. 14 replies were received and the result was 7 for and 7 against.

The three property owners were advised of their right to address Council at the meeting at which this report was to be considered. Mr Felton is away overseas at present and therefore could not attend the meeting. A written submission has been received from Solicitors acting for the owners of 16 and 18 Thrower Avenue. A copy of this submission has been available in the Councillors' Room prior to the meeting.

Statutory Requirements:

Under the Roads Act Council has the power to issue an order for the encroachment to be removed.

Also under the Roads Act sections of the laneway could be closed and sold. This is a lengthy process and also involves the Department of Lands who make the final decision in relation to road closures. Anyone can object to a proposed road closure.

Cont'd

Issues:

The main issue to be resolved is, whether, in all the circumstances, Council should require removal of the encroachments. The key to this decision is whether there is adequate access from the laneway to Mr Felton's property to enable him to carry out his proposed extensions/alterations. Although he has 20 metres of unrestricted access to the lane, the position of the dwelling does impact on the available access. However, it is still considered Mr Felton has adequate access to his property from the laneway. It is Mr Felton's view that, but for the encroachments, he would have a better and wider choice of access points to his property. While this may be true, due to the fall of the land, it would take considerable earthwork to provide access to his property at the point of 18 Thrower Avenue's encroachment.

If Council decides to allow the encroachments to remain, steps must be taken to legalise them. The best approach would be to make an application to close these parts of the laneway and sell them to the adjoining owners. If this process was followed, Mr Felton would no doubt object and his objection would be dealt with by the Department of Lands. This process can take up to 18 months to complete.

The current set of circumstances have been in existence for at least 15 years, and the only major change is that Council now owns the laneway. It is recommended that the encroachments be allowed to remain and the owners of 16 and 18 Thrower Avenue make application to close and purchase sections of the laneway.

Implementation Date / Priority:

The matter will be actioned according to Council's decision.

Recommendation:

- 1. That the encroachments onto the laneway at the rear of No's 16 and 18 Thrower Avenue be allowed to remain, subject to the owners of the properties making application to close and purchase these parts of the laneway.**
- 2. That all land owners who were surveyed be informed of Council's decision.**

B10 WOOLGOOLGA SENIOR CITIZENS CENTRE

Purpose:

To recommend to Council future action in relation to the Woolgoolga Senior Citizens Centre.

Description of Item:

In December 2003 Council resolved that:

"1. Council provide a loan of \$90,000 plus interest of \$30,000 over 10 years to complete the building of a Seniors Centre in Woolgoolga. The loan is made up as follows:

- (a) \$90,000 principal is to be paid by the Rotary Club of Woolgoolga over 10 years at \$2,250 per quarter.
- (b) \$30,000 interest component at \$750 per quarter over 10 years to be paid from the operations of the Centre. Note: Interest payments to be delayed by six months from opening date (first year payment = \$1,500, second year an additional \$1,500 to be paid in the first quarter).

2. The arrangements to be confirmed by exchange of letters.

3. The \$90,000 loan to be funded by an allocation from revenue with future repayments of principal and interest credited to revenue as received."

Council has previously resolved (on 22 July 2004) to reduce the loan to the Rotary Club of Woolgoolga Inc to \$81,000.

Correspondence has now been received from the Rotary Club of Woolgoolga Inc requesting that Council accept, as a gift, the Woolgoolga Senior Citizens Centre and its contents. The Rotary Club is also seeking release from the above loan agreement. Discussion has been held with the Woolgoolga Seniors' Centre Inc, the body which currently manages the facility, and representatives of the Rotary Club of Woolgoolga regarding the proposal.

Correspondence has also been received from the Commonwealth Department of Transport & Regional Services (DOTARS), the provider of government grant funding to the Rotary Club of Woolgoolga to assist with the construction cost of the Centre. This outlines acceptance of the proposal by that Department. A draft Deed of Agreement has been provided to Council.

The discussions have resulted in the following being recommended to Council:

Dissolve the loan currently held by the Rotary Club of Woolgoolga Inc, for the building of the seniors centre, which amounts to \$81,000, (and bring to account the value of the Seniors Centre as an asset in Council's records)

- Council, as corporate manager of the Woolgoolga Senior Citizens Centre Reserve Trust, accept as a "gift" from the Rotary Club of Woolgoolga Inc the Seniors Centre located at Lot 117, DP 752853.

Cont'd

- Execution of the Deed of Agreement between:
 - DOTARS
 - Rotary Club of Woolgoolga Inc
 - Woolgoolga Seniors Centre Inc
 - Coffs Harbour City Council

- This Deed provides the necessary consents between the parties for an assignment and variation of the current lease. This lease will be assigned from the Rotary Club of Woolgoolga Inc to the Woolgoolga Seniors' Centre Inc with the following variations:
 - Noting the requirements of the Girl Guides Association of NSW in relation to the property;
 - The requirement for the lessee to furnish the lessor audited financial accounts annually; and
 - A clause regarding the option to renegotiate the rent should the lessee have a greater capacity to pay during the term of the lease.

- Support the Woolgoolga Seniors' Centre Inc operations financially up to \$10,000 in the 2005/2006 financial year and then up to \$6,000 per annum in subsequent years, following the provision of audited financial statements from the incorporated association.

The above steps allow for the incorporated association to operate the centre just as it has been and also allows the centre to continue to grow and meet the community's needs.

Sustainability Assessment:

- **Environment**

There are no environmental issues associated with this proposal.

- **Social**

Should Council agree to this proposal the Woolgoolga community will benefit from the continued operation of the above facility. The incorporated association would then continue to be responsive to the needs of the local community and make day to day operational decisions.

- **Economic**

Broader Economic Implications

The ongoing operation and maintenance of the building will need to be funded by Council. The fees from the hire of the venue will be used to offset some of these costs.

Management Plan Implications

Advice provided by Council's City Treasurer is that the action concerning dissolution of the \$81,000 loan held by the Rotary Club of Woolgoolga Inc will have no adverse impact on Council's 2005/06 Management Plan. As Council became aware of the Rotary Club's intent to pursue this proposal prior to adoption of the 2005/06 Management Plan then the Club's loan repayments were not relied upon in budgeting income funds.

Cont'd

It is noted that there is an allocation of \$10,000 for operation costs in Council's 2005/06 Management Plan and also an allocation of \$6,000 in the draft 2006/07 budget.

Consultation:

Consultation has been held with the Woolgoolga Senior Citizens Centre Inc, Rotary Club of Woolgoolga Inc and DOTARS.

The details of this proposal have also been discussed with Council's City Treasurer and Council's Community Services Manager.

Related Policy and / or Precedents:

There are no related policies or precedents.

Statutory Requirements:

A lease does exist between the Rotary Club of Woolgoolga Inc and Council which has been executed by both parties and is currently with the Department of Lands awaiting endorsement of the Minister's consent to the lease.

The salient points of the lease are as follows:

- Lease is for a term of 20 years commencing on 1 July 2003 and terminating on 30 June 2023.
- No option period.
- Rental is \$70 per annum **but shall be reviewable** if minimum rent prescribed for purposes of Section 146 of the Crown Lands Act 1989 is increased.
- Lessee pays GST.
- Lessee pays **all** outgoings, including rates and taxes as well as maintenance and repair costs.
- Lessee must insure the building.

It should be noted that the Lessee (Rotary) does have the right to assign (i.e., transfer) the lease of the premises subject to the consent of the Lessor (Council) and the Minister administering the Crown Lands Act 1989. The Lessor's right to withhold consent is limited, however, it would be granted in the event it is proposed to assign the lease to a body of a similar nature with the aim of continuing to operate the facility in line with its existing format.

That is, assignment would be acceptable to a non-profit, community based organisation wishing to continue to run the facility as a Senior Citizens Centre or similar style of community use facility.

Issues:

The Rotary Club has outlined strong support for the current management committee and also the option to assign the lease of the premises to the incorporated association.

Cont'd

Implementation Date / Priority:

Should Council resolve to accept the proposal, implementation will commence immediately.

Recommendation:

That Council:

1. **Dissolves the loan currently held by the Rotary Club of Woolgoolga Inc for the building of the seniors centre, which amounts to \$81,000.**
2. **Accepts (as corporate manager of the Woolgoolga Senior Citizens Centre Reserve Trust) as a "gift" from the Rotary Club of Woolgoolga Inc the Seniors Centre located at Lot 117, DP 752853 (Crown Reserve No. 1003014 for the public purpose of Community Purposes notified 1 November 2002).**
3. **Accepts for signatures and execution, the Deed of Agreement between:**
 - **DOTARS**
 - **Rotary Club of Woolgoolga Inc**
 - **Woolgoolga Seniors Centre Inc**
 - **Coffs Harbour City Council.**
4. **Acknowledge that this Deed gives consent to an assignment of the current lease being an assignment from the Rotary Club of Woolgoolga Inc to the Woolgoolga Seniors' Centre Inc subject to the following variations:**
 - **Noting the requirements of the Girl Guides Association of NSW in relation to the property;**
 - **The requirement for the lessee to furnish the lessor audited financial accounts annually; and**
 - **A clause regarding the option to renegotiate the rent should the lessee have a greater capacity to pay during the term of the lease.**
5. **Supports the annual operating costs of Woolgoolga Seniors Centre Inc up to \$6,000 per annum following the provision of audited financial statements from the incorporated association, with annual reviews.**
6. **All necessary documents related to the dissolution of loan, agreement with DOTARS, assignment and variation of lease between Council, Woolgoolga Seniors Centre Inc and Rotary Club of Woolgoolga Inc be executed under the Common Seal of Council.**



Pat Littler
Director of City Business Units

PED18 TENDERING OF LANDFILL GAS EXTRACTION AND UTILISATION

Purpose:

To recommend that Council call tenders in respect to landfill gas capture and utilisation at Coffs Harbour City Council's Englands Road waste management facility, and to recommend that Council do so by the selective tendering method.

Description

Since 1963 Council has been depositing waste in the landfill, now known as the Coffs Coast Resource Recovery Park, at Englands Road, Coffs Harbour. The microbiological breakdown of organic waste in this facility, in the absence of oxygen, results in creation of landfill gas.

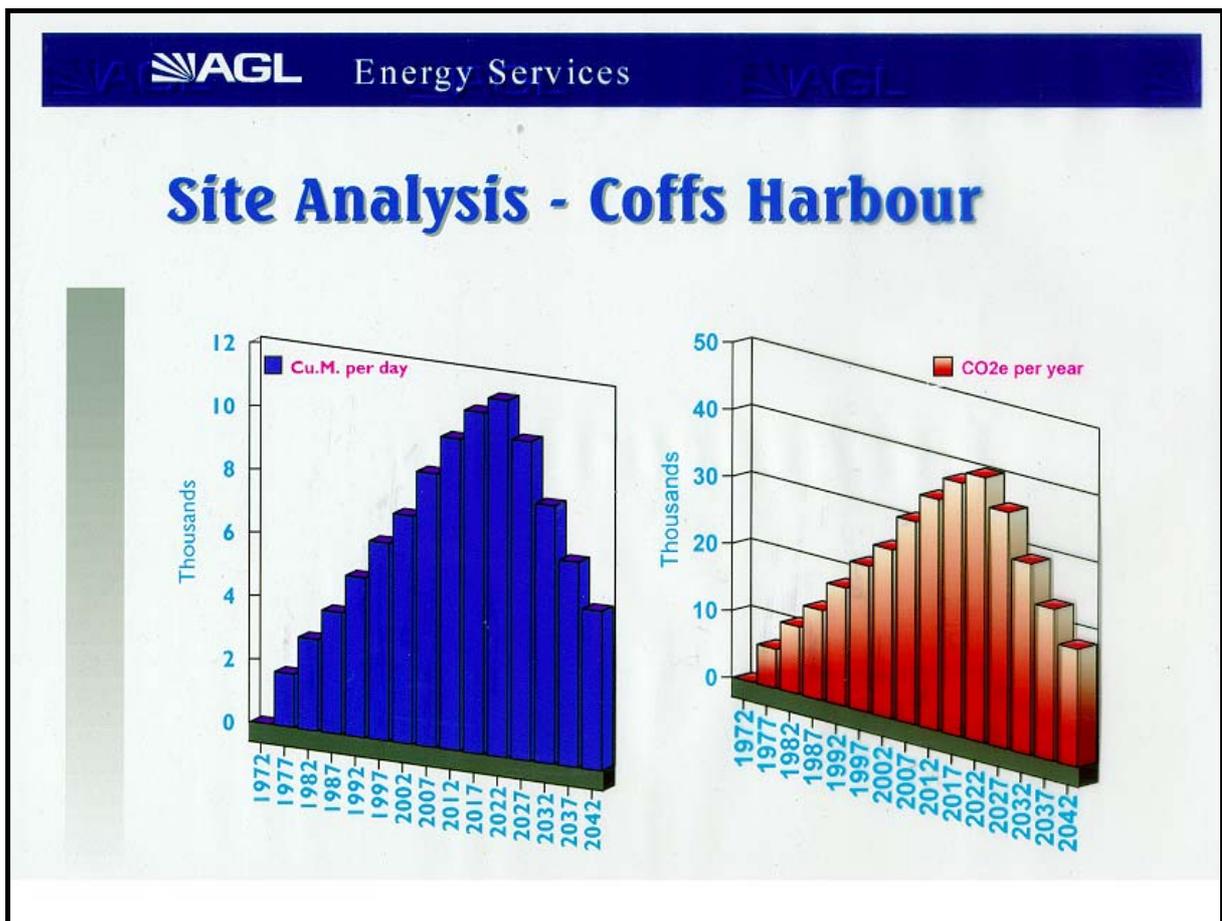


Landfill gas typically comprises about 55% methane, about 40% carbon dioxide and other gases including water vapour, nitrogen, non methane organic gases, odourous sulfides. The odorous gases give the landfill gas mixture a characteristic "rotting" smell. Methane is a potent greenhouse gas, one tonne of which is equivalent to 21 tonnes of carbon dioxide.

Without an extraction system these gases escape from the landfill following paths of least resistance and cause odours, safety risks, and greenhouse emissions.

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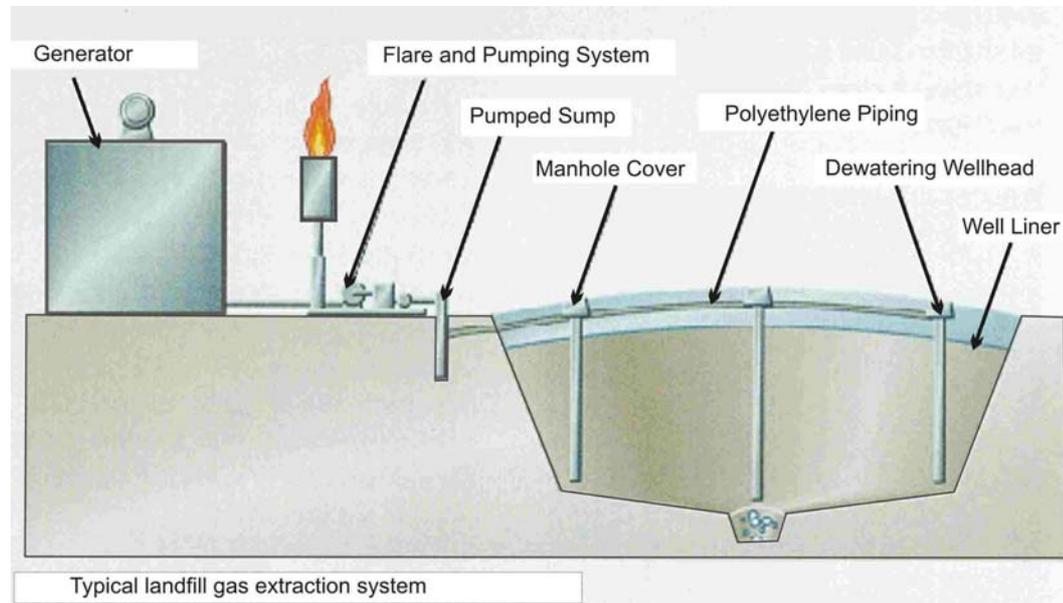
In 1998, a financial and technical feasibility study was undertaken to evaluate landfill gas utilisation at the Englands Road Waste Management Facility. The study was undertaken by AGL with funding from the then NSW Sustainable Energy Development Authority. The purpose of that study was to look at predicted long term gas generation rates and the potential viability for utilisation of the extracted gas for power generation. The study indicated that landfill gas generation will probably continue beyond the year 2042 and would likely peak at 11,000 cubic metres per day during the year 2022, and greenhouse gas emissions would peak in the same year at 40,000 tonnes (equivalent CO₂) per year. See graphs below.



The AGL study was of a preliminary nature and did not employ more reliable field studies and bores. The production of gas is quite variable depending on factors such as moisture, temperature, rainfall, permeability of capping, and composition and quantity of waste deposited at the landfill. The prior practice of burning tree loppings at the site, and the proposed recovery of all organic waste for processing will obviously have bearing upon the actual landfill gas production rates. Nevertheless the quantity of organic waste buried in the landfill is considerable and landfill gas production will continue for many years to come.

Landfill gas extraction involves installation of a system of wells and trenches which are connected through piping to a large industrial exhaust fan which maintains a negative pressure on the whole gas collection system. To install a well, one must drill deep into the landfill waste and insert a long section of vertical pipe. Each well has its own pressure regulator on it so that the force of the vacuum can be controlled. Trenches are sections of pipe that are laid horizontally in the landfill and function in a similar manner to the vertical wells.

Cont'd



Once the landfill gas has been extracted it may be flared, or if viable quantities are present it may be used to generate electricity, and or produce heat either by direct gas utilisation or by cogeneration whereby the waste heat is derived from power generation.

Heat and power, which may be recovered from landfill gas, are required by the Coffs Coast Resource Recovery Facility (CCRRF) and Materials Recovery Facility. The autoclave which will treat mixed residual waste has a requirement for heat energy to produce steam. Council recently commissioned a study of landfill gas generation and utilisation potential. The study found that whilst landfill gas production will likely be marginal in terms of investment in power generation alone, the synergies with the CCRRF and potential to use the waste heat from power generation ie cogeneration will likely make this project more economically viable.

The electricity which may be produced from landfill gas is classed as “Green Power” which attracts premium pricing . There is also potential income from emissions trading through NSW Greenhouse Abatement Certificates and Commonwealth Renewable Energy Certificates.

There are other potential markets for heat energy in the immediate local area which could also be explored in future, such as the hospital or perhaps heating of aquatic facilities.

There are some uncertainties and risks associated with this project which are explained further in this report. For this reason it is intended to initially call for expressions of interest, select preferred tenderers , seek expert advice in the framing of tenders, and stage the program so as to minimise risks and optimise outcomes.

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Sustainability Assessment:**Environment**

The installation of landfill gas extraction system will likely abate up to 40,000 tonnes eCO₂ per annum.

Should the gas production be found viable then there are opportunities to produce GreenPower and heat, which would result in further greenhouse abatement.

The provision of heat energy to the CCRRF would be environmentally advantageous compared to using bottled gas and "black power" .

As such this project has very positive environmental effects.

Economic

The installation of gas reticulation and flaring may involve costs to Council in the order of \$500,000 to \$1,000,000. Council's potential financial exposure will not be known with certainty until the EOI and tender process has been undertaken.

The provision of electricity generation and connection to the grid, and cogeneration to recover waste heat, may cost an additional \$1,000,000 or more. Though this would only proceed if gas generation proves viable, and in that case the full capital cost of the project may be met by the successful tenderer.

It is proposed that the project will be implemented under a Build, Own, Operate, Transfer (BOOT) contractual arrangement that will also include the option for Council to purchase, for its own use, a proportion of the product generated, at the going rate.

Issues:

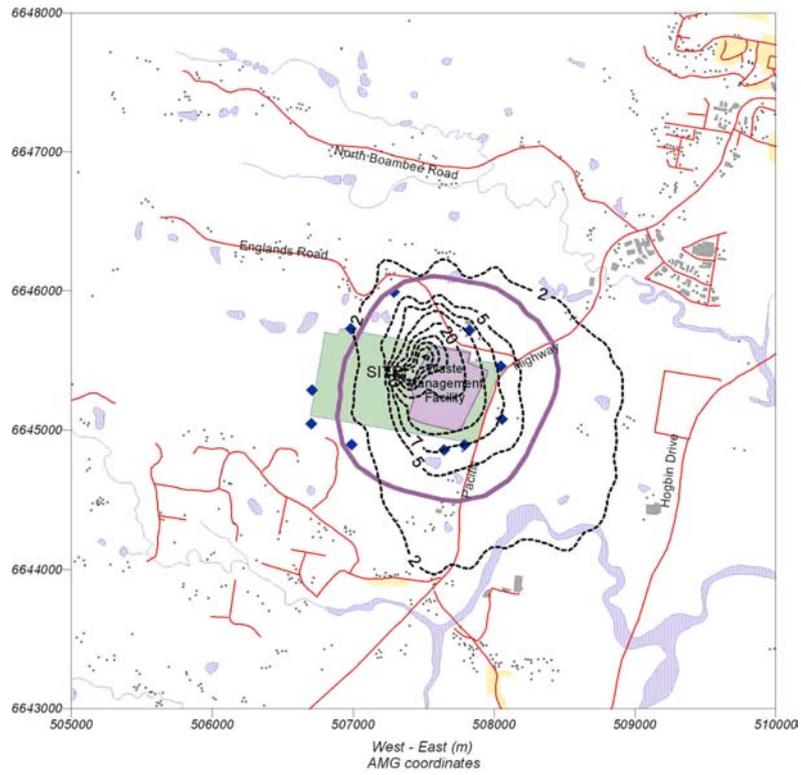
The extraction of landfill gas has bearing upon the South Coffs Local Environment Plan. With the commissioning of the CCRRF and the discontinuation of putrescible waste disposal at the landfill, there will be a substantial improvement in odour emissions from the site. There will however still be odour impacts, though greatly reduced, arising from uncontrolled emissions of landfill gas, until a collection system, utilisation, and treatment system is installed.

The detectability of an odour is a sensory property that refers to the theoretical minimum concentration that produces an olfactory response or sensation. This point is called the odour threshold and defines one odour unit per cubic metre (OU/m³). In practice, 'offensive' odour can only be judged by public reaction to the odour. The nuisance level can be as low as 2 OU/m³ and as high as 10 OU/m³ for less offensive odours.

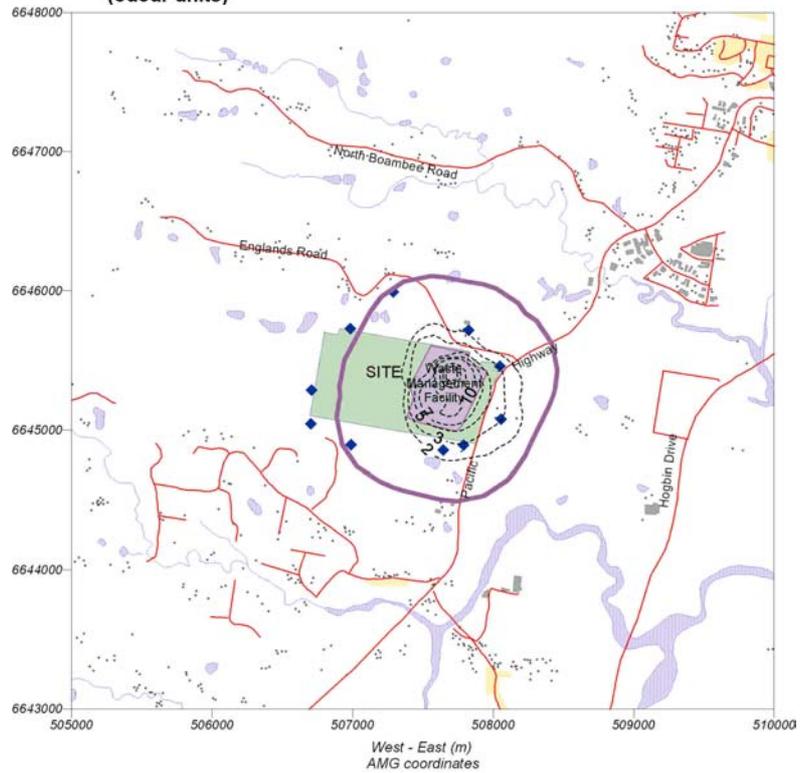
Odour modelling, using AUSPLUME which is an advanced Gaussian dispersion model, was undertaken to examine this issue more fully. See the following odour contour plots which model theoretical odour emissions from existing waste management operations, waste management operations after the CCRRF is commissioned, and waste management operations after the CCRRF is operational and landfill gas extraction and treatment is installed.

The contour plots show that the capture and utilisation of landfill gas will reduce odour impacts on surrounding properties.

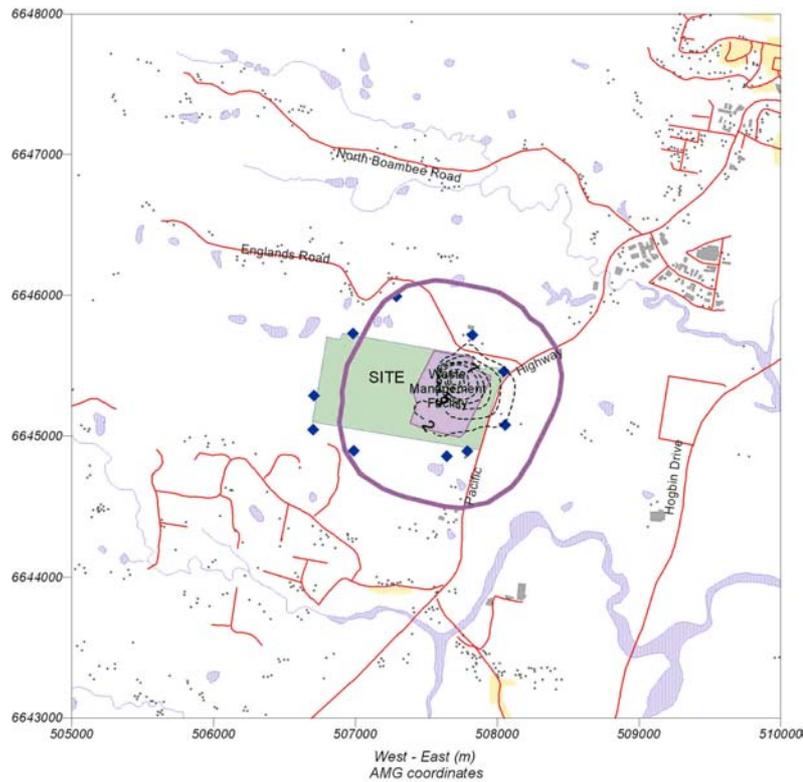
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**Predicted 99th percentile odour levels
existing WMF operations
(odour units)**



**Predicted 99th percentile odour levels
future WMF operations
(odour units)**



**Predicted 99th percentile odour levels
future WMF operations - landfill gas collection
(odour units)**

At this stage, despite preliminary studies, there is no absolute guarantee that the landfill gas quantities will be sufficient to make this project fully self funding. Once the contract has been awarded it is likely that the project will proceed in three stages as summarised below:

Activity	Estimated Cost	Comment
Stage 1 – Install Landfill Gas extraction system. Monitor and establish gas production levels.	\$500,000 – \$1,000,000	
Stage 2 – Monitor and establish gas production levels.		If gas production levels and market opportunities are shown to be viable, then proceed to Stage 2. Otherwise gas is flared, and Council pays the contractor for works executed.
Stage 3 – Install gas purification, power generation, cogeneration, gas/heat reticulation system.	Estimated Cost – \$500,000 - \$1,000,000	The full initial capital costs of Stage 1 to Stage 3 would likely be met by the contractor. The contractor would take ownership of the gas, and the carbon credits, and would be responsible for the marketing and sale of the gas.

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Related Policy and / or Precedents:

Council has an adopted Greenhouse Action Strategy, which identifies landfill gas extraction as a priority which would abate up to 40,000 tonnes (eCO₂) greenhouse emissions per annum.

Comments from City Treasurer

The potential cost to Council is currently put at \$500,000 to \$1,000,000. Whether there will be cost at all is not scheduled to be known until April/May 2007.

It would seem reasonable to consider the funding of the project in conjunction with the 2007/2008 Management Plan. By the time the Management Plan is adopted, it is expected that it will be known whether there is or is not a cost to Council.

It is proposed that any Council expenditure, in relation to the project, would be met from loan funds.

Comments from Strategic Planning

The South Coffs Urban Investigation Area, east of the Pacific Highway, is potentially impacted by the odours from the Resource Recovery Facility on the western side of the Highway.

Modelling of the Resource Recovery Facility has been undertaken on the basis of landfill without gas collection, and with gas collection, for both the maximum odour levels and the 99th percentile.

Findings of the Air Services Report indicate that landfill gas collection will significantly reduce the impact footprint on the South Coffs Urban Investigation Area. This means that with landfill gas collection, the area available for urban development can be extended in line with the revised odour footprint.

The undertaking of landfill gas collection will therefore allow for a greater area of the South Coffs Investigation area to be considered for urban purposes.

Statutory Requirements:

- The approved Environmental Impact Assessment for the Englands Road Waste Management Facility (1995), identifies landfill gas as an environmental issue and commits to landfill gas monitoring, and provision of gas collection.
- The Landfill Environmental Management Plan which was approved by the Department of Environment and Conservation (EPA) commits to monitoring gas levels and provision of gas collection.
- The Department of Environment and Conservation (EPA) Licence for the Englands Road Waste Management Facility, requires gas monitoring and gas collection in final capping layers.

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- Landfill gas extraction was identified in the approved EIS for the waste management facility. A Development Application may be required for the construction of the landfill gas extraction and utilisation system. The Department of Environment and Conservation – EPA would need to be consulted once details are known, and this may entail a variation of the Licence for the Englands Road Waste Management Facility.
- The Local Government (General) Regulation 2005, prescribes that the calling of tenders may be by open tender or selective tendering. It is proposed that in this instance the selective tendering method be followed. This will involve calling for Expressions of Interest (EOI) from suitably experienced and capable applicants by way of public advertisement.

After considering EOI submissions Council may either invite selected applicants to tender for the proposed contract, or decline to invite tenders from any of the applicants.

The tendering process will be conducted in accordance with the Local Government Act and Regulations.

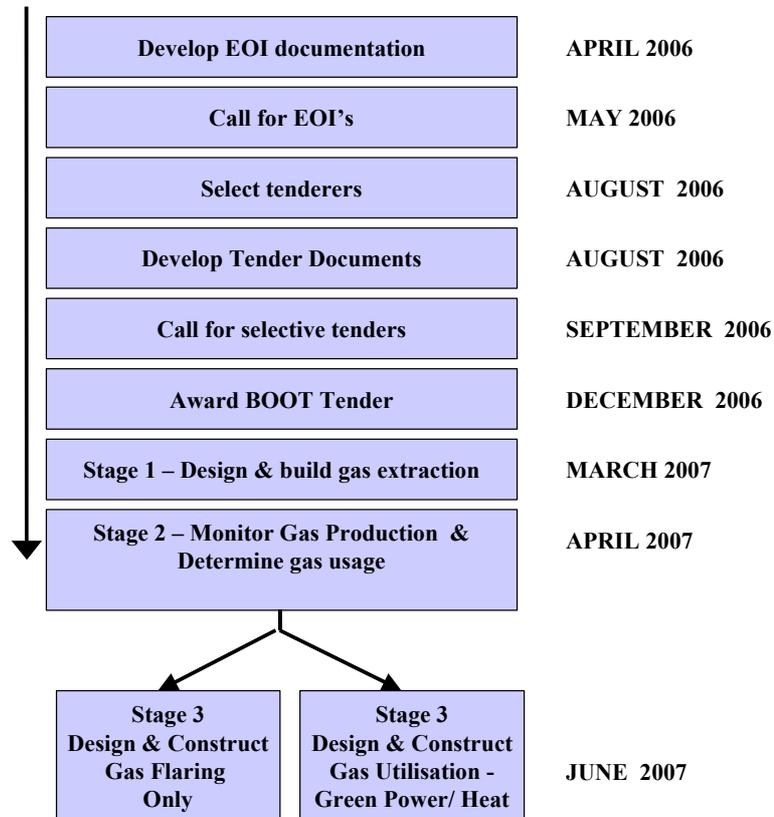
- Advice has been sought from Council's lawyers and the Department of Local Government as to whether this project would be caught by the Public Private Partnership legislation. It does not.

Implementation Date / Priority:

Expression of Interest documentation has been prepared, and it is intended that subject to Council approval, calling of the EOIs occur forthwith. It is anticipated that the project implementation will be as shown in the Table below.

Once EOIs have been received and evaluated a report will be submitted during August 2006 to determine the preferred tenderers for the project. It is anticipated that after formal tenders have been received and evaluated a further report would be put to Council around December 2006, to recommend appointment of a contractor for the purposes of the BOOT scheme. The duration of the contract is yet to be determined but will likely be for 20 years or more.

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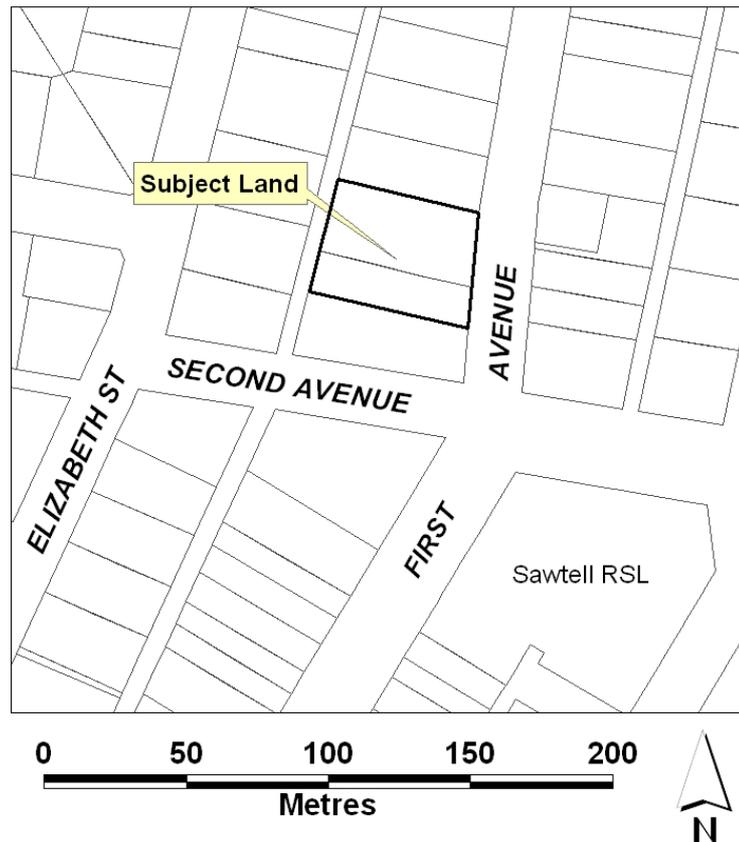
Recommendation:

1. That Council call tenders for the capture and utilisation of landfill gas, at Coffs Harbour City Council's Englands Road waste management facility.
2. That, pursuant to Clause 166 of the Local Government (General Regulation), Council use the selective tendering method.
3. That Council initiate this process as soon as possible, commencing with the calling of Expressions of Interest (EOI) from suitably experienced and capable applicants by way of public advertisement.
4. That funding the project be considered in conjunction with the 2007/2008 Management Plan, as it is scheduled to be known in April/May 2007 whether there will or will not be a cost to Council.

PED19 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 DP 857331, 59-67 FIRST AVENUE, SAWTELL

Purpose:

To determine the Development Application for the demolition of the existing buildings and construct a new development comprising 18 residential units and five retail shops.



The Development Application file will be placed in the Councillor's room for perusal prior to consideration by Council and be available at Council meeting.

Background:

This Application was considered by Council in November 2005, Council deferred the matter, pending the completion of the following:

- a) A review and re-exhibition of the Sawtell Masterplan, as it applies to the land zoned 3C Business Town Centre bounded by First Avenue and Second Avenue (as shown in hatching on the following plan;

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

- b) A review and re-exhibition of Local Environmental Plan Amendment No. 19 to Coffs Harbour City Local Environmental Plan (LEP) 2000, as it applies to the land zoned 3C Business Town Centre bounded by First Avenue and Second Avenue; and
- c) A review and re-exhibition of the Sawtell Town Centre Development Control Plan (DCP) as it applies to the land zoned 3C Business Town Centre bounded by First Avenue and Second Avenue.

In April 2006 a report was considered by Council, which recommended the approval of the Sawtell Town Centre Development Control Plan and pursue gazettal of Amendment No. 19 to the LEP. These were supported by Council and the Development Control Plan has now been adopted and advertised on the 29 April 2006.

It is now possible to reconsider and determine the Development Application.

Proposed Development:

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 part 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.

Statement of Heritage Impact:

As required under the Sawtell Town Centre DCP, a comprehensive Statement of Heritage Impact (SOHI) was submitted with the application – prepared by local heritage architect.

The SOHI states, in part ..

“Whilst isolated from the main town centre precinct the prominent side view of the building, together with the 1950’s holiday apartments nearly opposite, do form a 1950’s gateway symbol to the Sawtell town centre. This effect could be substantially reduced with any future redevelopment of the adjacent land to the north.

The building has some local historical significance as one of six surviving two storey skillion roofed shops with residences over, built in the 1950’s in the town centre and reflecting its growth at this time. The building has little local aesthetic or technical significance. Out of the conservation area the building is a minor contributor to the conservation area’s significance.

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

Demolition will have no effect on the aesthetic or social significance of the conservation area. This building is out of sight and disconnected from the sense of place in the conservation area. It will remove one of two 1950's buildings at the northern edge of the town centre. The building on no. 63 First Avenue does not have cultural significance. It is separated from the conservation area by four single storey shops, two of which do not contribute and will be demolished with No. 63."

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.

- **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 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.

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

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*
- *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.

Cont'd

Comments on Submissions:

The concerns are responded to as follows:

1. Retention of buildings

- The Sawtell Town Centre DCP does not prohibit the demolition of buildings within the conservation area, nor does it prohibit the demolition of buildings having a local significance heritage listing. The submissions were quoting from the Heritage Consultant's report which is appended to the Master Plan. This proposal does comply with the Sawtell Town Centre DCP and does allow for the buildings to be demolished.

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.

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.

Cont'd

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.

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 Sawtell Town Centre 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. This also accords with the Sawtell Town Centre DCP, with the dormer windows only marginally intruding into the view line from the other side of First Avenue.

Cont'd

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.

- **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."*

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

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 DA. 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 65 – Residential Flat Design
- North Coffs Regional Environmental Plan (REP)
- State Environmental Planning Policy (SEPP) 71
- Coffs Harbour City Local Environmental Plan (LEP) 2000
- Sawtell Town Centre DCP
- Off Street Car Parking DCP
- Business Lands DCP
- Heritage Information Sheet
- Landscape Information Sheet

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

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

Conservation controls exist for First Avenue. This proposal will not conflict with these new controls associated with the conservation area.

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 Sawtell Town Centre DCP**

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

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.

- **Overdevelopment of the site**

Concerns raised by objectors regarding the potential overdevelopment of the site cannot be justified. The proposal meets the requirements of the 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 part two/three-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.

Cont'd

Ped19 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 Dp 857331, 59-67 First Avenue, Sawtell ...(Cont'd)

Now that the regulatory controls have been finalized and put in place, this current Development Application can be determined.

The proposed development has not been altered in any way since the last meeting in November 2005 where it was recommended for approval. The previous recommendation for approval subject to conditions is now applicable to the updated situation with the adopted legislation regarding Amendment 19 of the CHCC Local Environmental Plan and the Sawtell Town Centre DCP.

It is therefore recommended that the Development Application 11/06 be supported by Council.

Summary:

The application for a part two-storey and part three-storey, mixed retail and residential unit development at First Avenue, Sawtell is in keeping with the Sawtell Town Centre DCP 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.

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 5 retail shop development with associated car parking on Lots 7 and 8 DP85331, 59-67 First Avenue, Sawtell shall be approved subject to technical conditions (See Appendix B).**
- 2. That those who lodged submissions on the 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 Proposed Conservation area for this property, incorporating the area between Second Avenue and the northern extent of the commercial zone in the process of being gazetted. This proposal complies with the controls outlined. 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),

- Sawtell Town Centre DCP

Compliance with the Sawtell Town Centre DCP has occurred in the areas of –

- Heritage – recognition of the area as a 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 the contemporary development and compliance with the 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 First Avenue, Sawtell**

**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 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. 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.
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 Subdivision and Development.*
 - *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.

Landscaping:

7. 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.

Car Parking:

8. *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 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**.

Sediment & Erosion Control:

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

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**.

Demolition:

12. 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*".
13. 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.
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 \$5,000.00 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.

Energy Efficiency:

18. 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.

19. 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:

20. 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	Total
		100m²\$	(x .3 ET)\$
Works to satisfy increased demand within the area for shops 463.5m ² of industrial/commercial development			
Water	Headworks	4,486.37	6,238.30
	Reticulation	1,701.73	2,366.25
Sewer	Headworks	1,479.01	2,056.56
	Reticulation	2,746.74	3,819.34
Amount Payable			14,480.45
b. The current contribution rate is:		Amount	Total
		\$	\$
Works to satisfy increased demand within the area for 16 small units			
Water	Headworks	3,140.46	50,247.36
	Reticulation	1,191.21	19,059.36
Sewer	Headworks	1,035.31	16,564.96
	Reticulation	1,922.72	30,763.52

Amount Payable **116,635.20**

c. The current contribution rate is:	Amount	Total
	\$	\$
Works to satisfy increased demand within the area for two large units		
Water	Headworks	4,486.37
	Reticulation	1,701.73
Sewer	Headworks	1,479.01
	Reticulation	2,746.74
Amount Payable		20,827.70

	Total
	\$
a)	14,480.45
b)	116,635.20
c)	20,827.70
Total	151,943.35
Minus Credits	66,773.60
TOTAL AMOUNT PAYABLE	85,169.75

Developer Contributions:

21. 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

- (i) The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.
- (ii) 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.
- (iii) 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	193.47	300.96
- Coffs Harbour Road Network	954.29	1,484.45
- Surf Rescue Equipment	49.68	77.28
- Regional Libraries	125.16	194.70
- Beach Protection Works	65.44	101.80
- Regional Open Space	210.44	327.35
- District Open Space	696.58	1,083.57
- Total	36,721.12	7,140.20

The Section 94 contribution is currently \$40,291.22 for the 18-unit development. This includes a one lot contribution rate credit of \$3,570.10.

Contributions have been imposed under the following plans:

- Regional, District & 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.

PED20 CONTROL OF OPEN BURNING

Purpose:

This report recommends that Council becomes Scheduled under Schedule 1, Parts 2 & 3 of the Protection of the Environment Operations (Control of Burning) Regulation 2000, which prohibits the open air burning of domestic waste and burning of vegetation waste in specific areas throughout the Coffs Harbour local government area (LGA).

Description of Item:

Council considered a report on 20 April 2006, PED 14 Controls on Open Burning (attached), and resolved that:

Report deferred and come back to Council at first opportunity for consideration/investigate distance from rural/residential premises and affect that it will have on rural/residential zoning (does it include or exclude).

Comments:

The main complaints about burning, concern smoke nuisance caused to residents by backyard burning, burning of vegetation associated with land clearing activities, and maintenance of large properties.

With respect to the question as to the merits of imposing restrictions on rural residential areas the following points are made:

- Complaints from occupiers in Residential zones about Rural Residential areas have mostly been about burning associated with land clearing activities.
- Complaints from residents within Rural Residential areas are mainly about backyard burning.
- Rural Residential areas are serviced by the Coffs Coast Waste Services, which includes organics collections.
- It is accepted that the quantities of vegetation prunings and cuttings generated on such land generally exceeds the capacity of the domestic organics bin.
- Alternatives for green waste disposal include composting, transport to the nearest waste management facility, or chipping.

The buffer distance of 400 metres from residential premises is simply a general guide which has been applied by Council in relation to subdivision clearing. Should Council proceed with the recommendations as proposed, most of the complaints which Council currently receives in this regard would abate. Council has other statutory means of recourse available under the Environmental Planning and Assessment Act, and the Protection of the Environment Operations Act and Regulations.

Smoke nuisance is a subject of ongoing complaints from Council. The Department of Environment and Conservation's regulatory review which is occurring now, some five years after implementation of the Control of Burning Regulation, is an opportunity for Council to address this issue.

Under the terms proposed in the following recommendations, Council would, after the Regulation amendments take effect, have the discretion to alter general approvals or to issue specific approvals at any time.

Cont'd

Conclusion

It is suggested that the recommendations of the former report be modified to the effect that:

- General approval be granted to burning in Rural Residential areas.
- The former condition concerning a 400 metre burning restriction, within zones where general approval is to be granted, be removed.
- The operation of the control of burning restrictions be the subject of a review by Council 12 months after the new rules come into effect.

Recommendation:

1. That Council seeks listing in Parts 2 and 3 of the schedule of the regulation on control of burning.
2. That upon implementation of the above, Council grant general approval for burning on land other than land zoned:
 - Residential: 2A, 2B, 2C, 2D, 2E;
 - Business: 3A 3B, 3C, 3D, 3E 3F, 3G;
 - Industrial: 4A.
3. That the operation of the control of burning restrictions be the subject of a review by Council 12 months after the new rules come into effect.



Mark Salter
Acting Director of Planning Environment & Development

Attachments:

PED 14 CBU 4 MAY 2006 BUSINESS PAPER

Purpose:

This report recommends that Council becomes Scheduled under Schedule 1, Parts 2 & 3 of the Protection of the Environment Operations (Control of Burning) Regulation 2000, which prohibits the open air burning of domestic waste and burning of vegetation waste in specific areas throughout the Coffs Harbour local government area (LGA).

Description of Item:

In response to the significant number of complaints received by Council annually, 37 received during the last 12 months, and the number of subdivision clearings resulting in large stockpiles of vegetation waste being burnt, Council has the opportunity to prohibit the open air burning of household and vegetation wastes under the Protection of the Environment Operations (Control of Burning) Regulation 2000.

This opportunity has arisen, at the invitation of the Department of Environment and Conservation (DEC), as part of DEC's regulatory review.

Schedule 1 of this Regulation comprises three parts, as follows:

- Part 1 - All burning is effectively prohibited.
- Part 2 - Burning of vegetation requires Council approval.
- Part 3 - Burning of domestic waste is prohibited.

Sustainability Assessment:

- **Environment**

Burning in the open or in inadequately controlled incinerators results in incomplete combustion. Incomplete burning of materials results in the generation and emission of small particles that are suspended in the atmosphere and can be dispersed over a large area.

Concern about the contribution of backyard burning to air pollution in the Sydney area led to restrictions on burning in the open. By 1990, regulations under the Clean Air Act applied to all Councils in the Sydney region and a number of regional centres.

The hilly terrain encompassing Coffs Harbour affects the rate of dispersion of pollutants, trapping pollution from backyard burning within the Coffs Harbour basin. With over 90% of the local population living on the narrow coastal plain, pollution generated there is often subject to unfavourable dispersion conditions. Temperature inversions, which trap pollutants close to the ground, allow little or no dispersion.

The coastal range also affects air movement by generating drainage flows. These tend to generate at night when the wind is light and sky is clear, chilling air close to the ground making it denser than air above it. Where the ground is sloped, the air close to the ranges will drift down towards the coastal strip, concentrating pollutants in that area.

Infants and small children, the elderly, and people with ailments like asthma and emphysema are especially sensitive to unhealthy levels of air pollution. Not only does air pollution affect human health, it also accelerates structural corrosion to the built and natural environment.

- **Social**

By prohibiting burning in the open, the adverse health effects of fine particles pollution are reduced. The adverse effect of other pollutants, localized odours and nuisance are also avoided.

The number of complaints regarding smoke from burning near residential areas should decrease.

- **Economic**

The prohibition of burning of vegetation would place an increased demand on greenwaste collection and/or shredding/mulching or involve greater use of private transport to the waste facilities.

Encouragement of household on-site composting, worm-farming operations would help to offset these demands.

Increased land clearing costs would be incurred by both private sector and Council should burning of vegetation be prohibited.

Enforcement:

The effect of applying “Part 2” category would be to prohibit the burning of vegetation except by Council approval or on land associated with agricultural operations. The Council approval may be a general approval specifying any circumstances or areas within the local government area in which open burning of dry vegetative matter is permitted.

The granting of an approval of a general nature is by notice published in a local newspaper. It is proposed that upon implementation of the above, Council grant general approval for burning on land other than land zoned:

- Rural: 1B;
- Residential: 2A, 2B, 2C, 2D, 2E;
- Business: 3A 3B, 3C, 3D, 3E 3F, 3G;
- Industrial: 4A.

Providing that burning not take place within 400 metres of residential premises. Approvals may also be issued to a particular person by written notice to the individual.

The effect of applying “Part 3” would be to prohibit the burning of domestic waste where a domestic waste management service is available.

Regardless of which category is applied, the burning of vegetation is allowed for cooking/barbecuing and to light a fire for recreational purposes, such as, camping, picnicking, scouting or similar.

A breach of the regulation will carry a \$500 penalty infringement notice.

Management Plan Implications

Minimal impact on Council’s Management Plan would result as the control of burning would be by way of an announcement in the local newspaper.

Consultation:

Several representations from residents have been received encouraging Council to implement the Non burn policy as exists in Sydney and neighbouring Councils, such as Nambucca, Clarence Valley, Greater Taree, Port Macquarie-Hastings, Lismore and Ballina.

Related Policy and / or Precedents:

Council already has a policy in place to prohibit burning of tree wastes where the development site is located within 400 metres of a developed residential area. Burning of construction wastes on development sites is also prohibited. Builders are currently using bulk waste bins for removal of these materials from sites.

Statutory Requirements:

Protection of the Environment Operations (Control of Burning) Regulation 2000 and in particular Clauses 7, 8 and 9.

Issues:

The introduction of the No Burn Policy would allow a more effective response to back yard burning complaints. Public awareness by way of press releases and initial warnings would be given prior to any penalty notices being issued.

The do-nothing option allows some old habits to continue without constraint.

Implementation Date / Priority:

The regulation is intended to commence on 1 September 2006.

Recommendation:

1. That Council seeks listing in Parts 2 and 3 of the schedule of the regulation on control of burning.
2. That upon implementation of the above, Council grant general approval for burning on land other than land zoned:
 - Rural: 1B;
 - Residential: 2A, 2B, 2C, 2D, 2E;
 - Business: 3A 3B, 3C, 3D, 3E 3F, 3G;
 - Industrial: 4A.

Providing that burning not take place within 400 metres of residential premises.