



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
9 SEPTEMBER 2010

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	A portion of these reports are confidential for the reason of Section 10A (2):	
	(d) commercial information of a confidential nature that would, if disclosed:	
	(i) prejudice the commercial position of the person who supplied it, or	
	(ii) confer a commercial advantage on a competitor of the council, or	
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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

9 SEPTEMBER 2010

Mayor and Councillors

GENERAL MANAGER'S REPORTS

GM10/14 ELECTION OF DEPUTY MAYOR

Purpose:

To seek Council's decision on the election of a Deputy Mayor.

Description of Item:

Council's practice is to elect a Deputy Mayor each year for a 12 month period.

The role of Deputy Mayor is to assist the Mayor with the performance of ceremonial duties and to exercise the functions of the Mayor during periods of absence. Council must now determine if it wishes to elect a Deputy Mayor and if so, by what method.

Sustainability Assessment:

- **Environment**

There are no perceived current or future environmental impacts.

- **Social**

There are no perceived current or future social impacts.

- **Economic**

Broader Economic Implications

No additional fee applies to the position of Deputy Mayor.

Cont'd

GM10/14 Election of Deputy Mayor ...(Cont'd)

Statutory Requirements:

Section 231 of the Local Government Act provides the power to elect a Deputy Mayor and Clause 394 and Schedule 7 of the Local Government (General) Regulations cover the procedures relating to the conduct of the election.

Attached to this report is a copy of these provisions and Council's attention is drawn to the provisions relating to nominations, and the methods of election.

Should there be more than one nomination for the position, Council is required, in accordance with Clause 3 of Schedule 7, to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting. Ballot has its normal meaning of secret ballot and open voting is a show of hands.

Recommendation:

- 1. That Council elect a Deputy Mayor for the ensuing twelve (12) months.**
- 2. That nominations be called and the method of election now be determined.**

Attachments:

LOCAL GOVERNMENT ACT 1993 - SECT 231

231 Deputy mayor

- (1) The councillors may elect a person from among their number to be the deputy mayor.
- (2) The person may be elected for the mayoral term or a shorter term.
- (3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.
- (4) The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.

Local Government (General) Regulation 2005

394 Election of mayors by councillors

If a mayor or deputy mayor is to be elected by the councillors of an area, the election is to be in accordance with Schedule 7.

Schedule 7 Election of mayor by councillors

(Clause 394)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, ***absolute majority***, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

Purpose:

To elect the Chairpersons of Council's Standing Committees being:

- City Services
- Land Use, Health & Development and
- Corporate Business

Description of Item:

Council's practice is to elect a Chairperson and Deputy Chairperson to each of the three Standing Committees for a 12 month period.

Sustainability Assessment:

- **Environment**

There are no perceived current or future environmental impacts.

- **Social**

There are no perceived current or future social impacts.

- **Economic**

Delivery Program/Operational Plan Implications

There are no perceived current or future management plan impacts

Statutory Requirements:

The Local Government (General) Regulation 2005 allows for the election of chairperson and deputy chairperson.

Implementation Date / Priority:

The resolution of Council will come into effect immediately.

Recommendation:

1. **That Council elect a Chairperson and Deputy Chairperson for the following Standing Committees:**
 - **City Services**
 - **Land Use Health and Development**
 - **Corporate Business**
2. **That nominations be called and the method of election now be determined**

Ben Lawson
General Manager (Acting)

Attachments:

Local Government (General) Regulation 2005

267 Chairperson and deputy chairperson of committees

- (1) The chairperson of each committee of the council must be:
 - (a) the mayor, or
 - (b) if the mayor does not wish to be the chairperson of a committee—a member of the committee elected by the council, or
 - (c) if the council does not elect such a member—a member of the committee elected by the committee.
- (2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

Schedule 7

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:

ballot has its normal meaning of secret ballot.

open voting means voting by a show of hands or similar means.

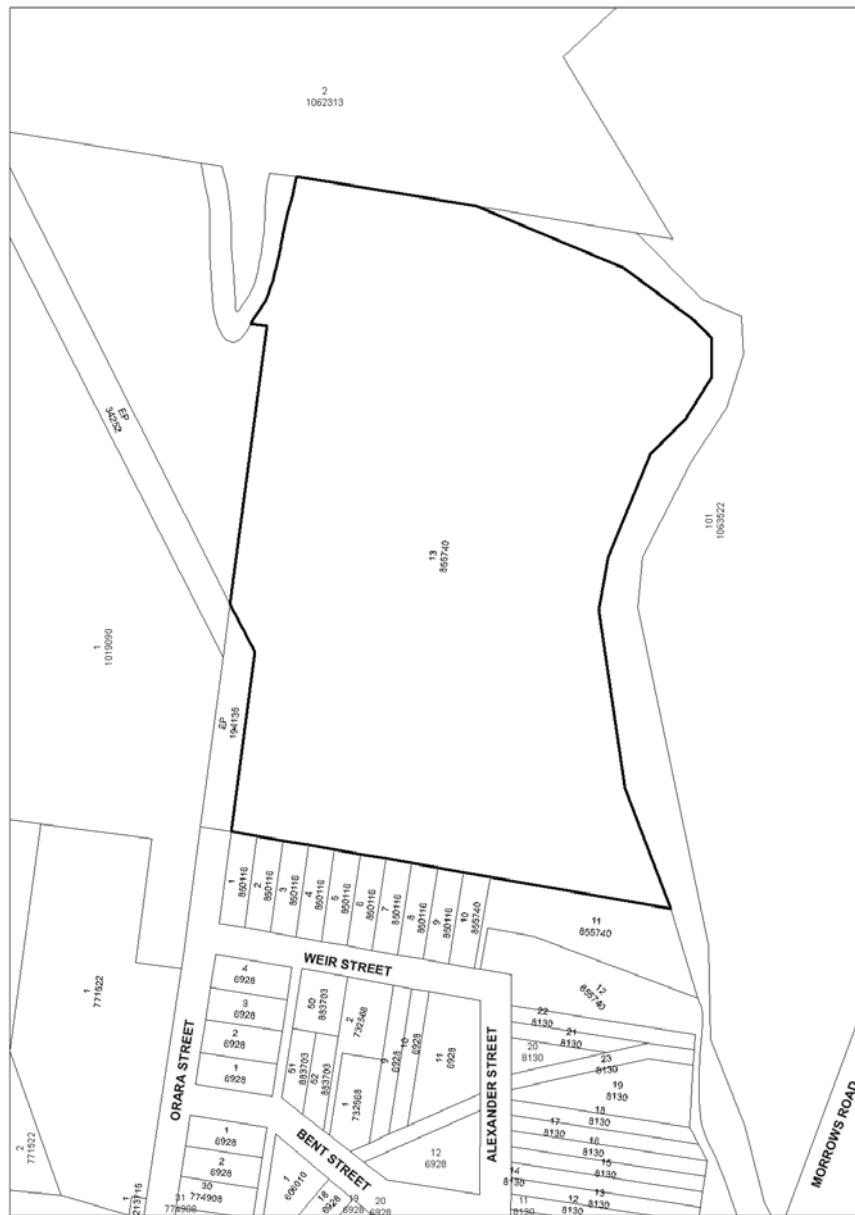
LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORTS

L10/12 DEVELOPMENT APPLICATION 1196/10 – SUBDIVISION (SIX LOTS – COMMUNITY TITLE) – LOT 13 DP 855740, ORARA STREET, NANA GLEN

Purpose:

This report describes Development Application 1196/10 for a six lot community title subdivision.

The proposed development site is Lot 13, DP 855740, Orara Street, Nana Glen. Conditional approval of the application is recommended.



Lot 13 DP 855740 - Nana Glen Rail

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1:3,000

Cont'd

L10/12 Development Application 1196/10 – Subdivision (Six Lots – Community Title) – Lot 13 DP 855740, Orara Street, Nana Glen ... (Cont'd)

Description of Item:

- **Current Application:**

The subject lot is located to the immediate north of the Nana Glen Village. The site is surrounded by grazing land to the north and west, Bucca Bucca Creek and the Nana Glen Recreation & Equestrian Centre to the east and the Nana Glen Village to the south. The site currently contains cattle yards and a small machinery shed and is primarily used for grazing activities.

The proposal involves the subdivision of Lot 13 (currently 10.46 hectares in size) to create 6 community title lots. The proposal will result in Lots 1, 2, 3, 4, 5 and 6, which will be 5.6 hectares, 8,000m², 8,300m², 1.05 hectares, 8,200m² and 8,500m² in size respectively. Lot 1 will be the community parcel and will encompass the private road and existing vegetation, including the riparian zone along Bucca Bucca Creek. The community parcel will be managed by the community association, made up of landowners.

Access to the proposed lots will be gained via a private road off an extended Orara Street. The private road, as outlined above, will become part of the community parcel. Orara Street is currently constructed to its intersection with Weir Street. The proposed development will involve construction of the remaining unconstructed section for a distance of approximately 60 metres.

A copy of the proposed plan is included in this report as Appendix B.

- **Planning Circular PS 08-014 – Reporting Variations to Development Standards**

In November 2008 the Department of Planning issued a Planning Circular outlining new requirements in relation to the determination and reporting of development applications involving variations to development standards under State Environmental Planning Policy No.1 – Development Standards (SEPP No.1). This circular requires that all applications where there has been a variation greater than 10% in standards under State Environmental Planning Policy No.1 – Development Standards be determined by full Council rather than under delegated authority.

Clause 18 (5B) of the Coffs Harbour City Council Local Environmental Plan 2000 provides that Council may grant consent to the subdivision of land zoned 1B Rural Living where each lot will be at least the minimum area specified in the Nana Glen-Bucca Development Control Plan, in this case being 2 hectares.

As the proposal seeks to create six lots that are below this standard the applicant has submitted an objection pursuant to SEPP No.1 in support of the proposal. The SEPP No.1 objection is considered in detail in the Section 79C assessment appended to this report.

As Council is unable to assume concurrence for the proposed variation, being more than one lot below the standard, the application and accompanying SEPP No.1 Objection was referred to the NSW Department of Planning (DoP) for consideration and concurrence. DoP has issued concurrence, in this instance, for the following reasons: the overall density of the development is greater than the 2 hectares per lot, thereby meeting the intent of the standard; the proposed lots are adjacent to smaller residential lots in the Nana Glen Village; and the majority of the land zoned 7A Environmental Protection will be contained within the community parcel that will be subject to a management plan and will be managed as a single unit.

Cont'd

L10/12 Development Application 1196/10 – Subdivision (Six Lots – Community Title) – Lot 13 DP 855740, Orara Street, Nana Glen ...(Cont'd)

Given that the proposal involves a variation of greater than 10% to the required standard the application is referred to Council for determination, as per the requirements of the Circular.

The Development Application file, including the application (and all supporting documents) and plans will be available in the Councillor's room for perusal prior to consideration by Council and also at the Council meeting.

Sustainability Assessment:

- **Environment**

The site is largely devoid of native vegetation and is currently used for cattle grazing. The eastern boundary and part of the western boundary adjoin Bucca Bucca Creek, with the riparian vegetation consisting of a mixture of native species and weed infestation (predominately Camphor Laurel). A wildlife corridor extends 50 metres either side of the creek centre, which is currently mapped as secondary and tertiary koala habitat and zoned 7A Environmental Protection. The proposal does not involve the removal of any vegetation.

The proposal will consolidate the majority of land zoned 7A Environmental Protection, including the riparian areas, into the community parcel (proposed Lot 1) and will allow for the long-term management of this land via the Community Management Statement. This will include the preparation and implementation of a Vegetation Management Plan that will, amongst other things, detail measures to protect and enhance the riparian area along Bucca Bucca Creek.

The proposal is not likely to result in any significant adverse environmental impacts.

- **Social**

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality.

- **Civic Leadership**

The proposed development has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and all relevant Council controls and policies. The proposed subdivision is consistent with the aims and objectives of the Coffs Harbour 2030 Community Strategic Plan.

- **Economic**

Broader Economic Implications

There are no broader economic implications resulting from the proposal.

Delivery Program/Operational Plan Implications

There are no implications for Council's Delivery Program/adopted Operational Plan.

Cont'd

L10/12 Development Application 1196/10 – Subdivision (Six Lots – Community Title) – Lot 13 DP 855740, Orara Street, Nana Glen ...(Cont'd)

Consultation:

• **Community**

The application was notified to adjoining landowners for a period of 14 days between the 22 June and 7 July 2010 and five submissions (one signed by several landowners) were received. The submissions primarily raised issues regarding:

- stormwater drainage/flooding;
- the ongoing management of the community parcel;
- access; and
- fencing.

The issues raised in the submissions are discussed in the 'Issues' section below and in the Section 79C evaluation appended to this report.

• **Technical**

The application has been reviewed by Council's City Services (Engineering), Health (onsite effluent disposal) and Biodiversity sections and several conditions have been recommended for inclusion in the development consent. The application was also reviewed by the NSW Rural Fire Service (RFS) and the NSW Department of Planning (DoP). The RFS has issued a conditional Bushfire Safety Authority and DoP has issued concurrence to the submitted SEPP No.1 Objection.

The Coffs Harbour & District Local Aboriginal Land Council (LALC) also expressed an interest in the proposal. The applicant contacted the LALC and a site inspection was undertaken by representatives of the Council. The site inspection did not reveal any matters of aboriginal cultural heritage significance.

Related Policy and / or Precedents:

The application is reported to Council for determination as required by the Department of Planning Circular PS08-014 of 14 November 2008 "Reporting Variations to Development Standards".

Statutory Requirements:

• **Section 79C Evaluation:**

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

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

Cont'd

• **Relevant Statutory Instruments:**

- North Coast Regional Environmental Plan (deemed State Environmental Planning Policy);
- State Environmental Planning Policy No. 1 – Development Standards;
- State Environmental Planning Policy (Rural Lands) 2008;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Coffs Harbour City Local Environmental Plan 2000;
- Nana Glen-Bucca Development Control Plan; and
- Subdivision Development Control Plan.

Each of these statutory instruments is considered in detail in the Section 79C assessment appended to this report.

Issues:

• **Stormwater drainage/Flooding**

Concerns have been expressed in relation to the potential for the proposed development to exacerbate existing stormwater drainage issues in the Orara/Weir Street locality.

Comment

At present stormwater travels north-east down Orara Street into Weir Street and through some of the existing properties located on the low side of Weir Street, eventually making its way through the subject site.

Whilst Council acknowledges that there are existing stormwater drainage issues occurring in the Orara and Weir Street locality, the proposed subdivision will not exacerbate these issues.

As part of the development the developer will be required to provide interallotment drainage (piping of existing 1.8 metre wide drainage easement located on the southern boundary of the subject site) incorporating an overland flow swale with appropriate dissipation measures. Road drainage works associated with the Orara Street extension will also be undertaken. These works are expected to alleviate some of the existing drainage issues in the locality.

• **Ongoing management of the community parcel**

Concerns have been expressed regarding the ongoing management of the proposed community parcel, particularly in relation to weed management, bushfire hazard reduction etc.

Comment

An integral part of community title subdivision is the Community Management Statement, which details how the scheme is to be managed. Management statements are binding on each landowner.

In this instance, with regard to the proposed community parcel, the management statement will outline long-term management measures in relation to things such as: riparian vegetation, water access rights and bushfire protection etc. The applicant has provided a copy of the preliminary management statement with the current application.

Cont'd

L10/12 Development Application 1196/10 – Subdivision (Six Lots – Community Title) – Lot 13 DP 855740, Orara Street, Nana Glen ...(Cont'd)

It is considered that these measures will ensure that the community parcel is managed appropriately.

- **Access**

It has been requested that the proposed development provide for a laneway to allow rear access to existing properties along the northern side of Weir Street, which would also serve as an access for emergency services.

Comments

There is no relevant planning control for the current proposal to provide laneway access for adjoining properties. In any event such an access would impact on the proposed drainage works along this boundary.

- **Fencing**

Who will be responsible for the installation and ongoing maintenance of fencing, particularly to the community parcel.

Comment

There is no fencing proposed as part of the current application. All internal fencing will be the responsibility of future landowners. Dividing fences are a private matter to be resolved between adjoining landowners.

Implementation Date / Priority:

The Development Consent is valid for five years from the date of issue. The consent may or may not be acted upon. The consent may be acted upon immediately following issue date or delayed until closer to the expiry date of the consent. When the consent is acted upon is a matter of the discretion of the property owner/developer.

Recommendation:

1. That the request for the variation to development standards, Clause 18 (5B) be supported in this particular case.
2. That Development Application 1196/10 for Subdivision (six lot Community Title) of Lot 13, DP 855740, Orara Street, Nana Glen be approved subject to conditions appended to this report (Appendix C).

Attachments:

APPENDIX A

**Section 79C Assessment
Development Application 1196/10**

- a. the provisions of,
- i. any environmental planning instrument, and

• ***State Environmental Planning Policy - North Coast Regional Environmental Plan***

The North Coast Regional Plan is a deemed State Environmental Planning Policy (SEPP). The proposal is considered to be consistent with the aims and objectives of the Plan. There are no clauses that are of particular relevance to the proposal.

• ***State Environmental Planning Policy No.1 – Development Standards***

SEPP No.1 aims to provide for flexibility in the application of planning controls and provides a mechanism by which a development standard may be varied where it can be shown that: strict compliance with the standard is unreasonable or unnecessary; the proposed development satisfies state, regional or local planning objectives; and the proposed development is consistent with the underlying objective of the standard. Where Council is satisfied that the objection is well founded, having regard to the above considerations, consent may be granted to a development that does not meet the relevant development standard.

Clause 18 (5B) of the Coffs Harbour City Council Local Environmental Plan 2000 provides that Council may grant consent to the subdivision of land zoned 1B Rural Living where each lot will be at least the minimum area specified in the Nana Glen-Bucca Development Control Plan, in this case being 2 hectares.

As the proposed subdivision will result in six lots below the standard the applicant has submitted an objection to Clause 18(5B) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to State Environmental Planning Policy No.1.

In support of the proposal the applicant contends that: the proposal achieves an overall density of more than 2 hectares per lot; the proposed lots are immediately adjacent to the existing Nana Glen village and provides a transition between the village and the surrounding rural areas; the proposal provides for the long-term management and protection of the majority of the land zoned 7A, including the environmentally sensitive riparian zone; and the proposal is consistent with the relevant objectives and underlying intention of the development standard.

It is considered that the proposal and accompanying objection submitted satisfy the requirements of SEPP No.1.

As Council is unable to assume concurrence for the proposed variation, being more than one lot below the standard, the application and accompanying SEPP No.1 Objection was referred to the NSW Department of Planning (DoP) for consideration. DoP has issued concurrence, in this instance, for the following reasons: the overall density of the development is greater than 2 hectares per lot, thereby meeting the intent of the standard; the proposed lots are adjacent to smaller residential lots in the Nana Glen Village; and the majority of the land zoned 7A Environmental Protection will be contained within the community parcel that will be subject to a management plan and will be managed as a single unit.

- ***Planning Circular PS 08-014 – Reporting Variations to Development Standards***

In November 2008 the Department of Planning issued a Planning Circular outlining new requirements in relation to the determination and reporting of development applications involving variations to development standards under State Environmental Planning Policy No.1 – Development Standards (SEPP No.1). This circular requires that all applications where there has been a variation greater than 10% in standards under State Environmental Planning Policy No.1 – Development Standards to be determined by full Council rather than under delegated authority.

As the proposal will result in lots that do not meet the standard the applicant has submitted an objection pursuant to SEPP No.1 in support of the proposal (see discussion above).

Given that the proposal involves a variation of greater than 10% to the required standard the application is referred to Council for determination, as per the requirements of the Circular.

- ***State Environmental Planning Policy No. – Rural Lands***

The proposal is considered to be consistent with the aims and planning principles outlined in the Plan. The proposal involves a subdivision for rural residential purposes. The proposal will have not impact on agricultural practices.

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

The subject site is not mapped as potentially contaminated under Council's Agricultural Chemical Residues Policy. The site has been used for grazing activities for many years. Site investigations for agricultural chemical residues or other forms of contamination are not considered necessary.

- ***Mid North Coast Regional Strategy***

The Mid North Coast Regional Strategy is primarily an overarching document which guides Councils in setting regional parameters for future strategic planning. The proposed subdivision is consistent with the objectives outlined in the Strategy.

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

Zoning

The subject lots are zoned 1B Rural Living and 7A Environmental Protection. The proposed development is defined as 'subdivision of land', which is identified as permissible with consent in both zones.

Clause 14 – Services

Reticulated water and sewer are not available to the site. Proposed Lots 2 to 6 will be required to accommodate water tanks and onsite effluent disposal systems to service future dwellings. The Onsite Effluent Disposal Report submitted with the application concluded that the proposed lots are suitable for effluent disposal.

Clause 18 (5B) – Subdivision

Clause 18 (5B) specifies that Council may grant consent to the subdivision of land in the 1B zone where each proposed allotment has an area of at least the minimum area (being 2 hectares) specified in the Nana Glen-Bucca Development Control Plan. As the proposed subdivision will result in six lots below the standard the applicant has submitted an objection to Clause 18(5B) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to State Environmental Planning Policy No.1 (see discussion above).

ii. The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments applicable to this application.

iii. any Development Control Plan (DCP)

• Nana Glen-Bucca DCP

The proposal is considered to be consistent with the provisions of the Plan.

As outlined above, the proposal seeks to create lots that are below the 2 hectare standard contained within the DCP. The applicant has submitted an objection to this standard, which is discussed in more detail above.

Reticulated water and sewer are not available to the site. The proposed lots will be required to accommodate water tanks and onsite effluent disposal systems to service future dwellings.

The developer will be required to prepare a Vegetation Management Plan (VMP) that details the long-term management of the land zoned 7A, including the riparian area to Bucca Creek. The VMP will detail measures to eradicate Camphor Laurel.

• Subdivision DCP

The proposal is considered to be consistent with the provisions of the Plan.

Access to the proposed lots will be gained via a private road off Orara Street. Orara Street at present is constructed up to its intersection with Weir Street, after which it is unconstructed. To ensure an appropriate level of access is provided the developer will be required to construct both the private road and the remaining unconstructed section of Orara Street (for a distance of approximately 60 metres). Construction of Orara Street will also include stormwater drainage works.

• Rural Lands DCP

The proposal is considered to be consistent with the provisions of the Plan. The proposal will not have any impact on potentially productive agricultural land.

- **Notification DCP**

The development application was notified to adjoining landowners in accordance with the provisions of the Plan for a period of 14 days and five submissions were received. The issues raised in these submissions are discussed below in Section 79C (d).

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

Clause 92 of the Environmental Planning and Assessment Regulations 2000 requires that the NSW Coastal Policy 1997, be considered in the determination of development applications. As the subject site is not located within the coastal zone, the provisions of the Policy do not apply.

- 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,**

- 1. The natural environment**

The site is largely devoid of native vegetation and is currently used for cattle grazing. The eastern boundary and part of the western boundary adjoin Bucca Bucca Creek, with the riparian vegetation consisting of a mixture of native species and weed infestation (predominately Camphor Laurel). A wildlife corridor extends 50 metres either side of the creek centre, which is currently mapped as secondary and tertiary koala habitat and zoned 7A Environmental Protection. The proposal does not involve the removal of any vegetation.

The proposal will consolidate the majority of land zoned 7A Environmental Protection, including the riparian areas, into the community parcel (proposed Lot 1) and will allow for the long-term management of this land via the Community Management Statement. This will include the preparation and implementation of a Vegetation Management Plan that will, amongst other things, detail measures to protect and enhance the riparian area along Bucca Bucca Creek.

The proposal is not likely to result in any significant adverse environmental impacts.

- 2. Social and Economic Impacts**

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality.

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

It is considered that the attributes of the site are conducive to the proposed development. The proposed subdivision will provide additional rural residential opportunities adjoining the Nana Glen Village in a sustainable manner. The proposal meets the provisions of all relevant SEPPs and Council's DCPs/Policies.

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

The application has been reviewed by Council's City Services (Engineering); Health (onsite effluent disposal); and Biodiversity sections and the recommended conditions/actions have been incorporated into the evaluation process and consent conditions.

The application was also reviewed by the NSW Rural Fire Service (RFS) and the NSW Department of Planning (DoP). The RFS has issued a conditional Bushfire Safety Authority and DoP has issued concurrence to the submitted SEPP No.1 Objection.

The Coffs Harbour & District Local Aboriginal Land Council (LALC) also expressed an interest in the proposal. The applicant contacted the LALC and a site inspection was undertaken by representatives of the Council. The site inspection did not reveal any matters of interest.

As outlined above, the application was notified to adjoining landowners and five submissions were received. The submissions primarily raised issues regarding:

Stormwater drainage/Flooding

Concerns have been expressed in relation to the potential for the proposed development to exacerbate existing stormwater drainage issues in the Orara/Weir Street locality.

Comment

At present stormwater travels north-east down Orara Street into Weir Street and through the existing properties located on the low side of Weir Street, eventually making its way through the subject site.

Whilst Council acknowledges that there are existing stormwater drainage issues occurring in the Orara and Weir Street locality, it is considered that the proposed subdivision will not exacerbate these issues.

As part of the development the developer will be required to provide interallotment drainage (piping of existing 1.8 metre wide drainage easement located on the southern boundary of the subject site) incorporating an overland flow swale with appropriate dissipation measures. Road drainage works associated with the Orara Street extension will also be undertaken. These works are expected to alleviate some of the existing drainage issues in the locality.

Ongoing management of the community parcel

Concerns have been expressed regarding the ongoing management of the proposed community parcel, particularly in relation to weed management, bushfire hazard reduction etc.

Comment

An integral part of community title subdivision is the Community Management Statement, which details how the scheme is to be managed. Management statements are binding on each landowner.

In this instance, with regard to the proposed community parcel, the management statement will outline long-term management measures in relation to things such as: riparian vegetation, water access rights and bushfire protection etc. The applicant has provided a copy of the preliminary management statement with the current application.

It is considered that these measures will ensure that the community parcel is managed appropriately.

Access

It has been requested that the proposed development provide for a laneway to allow rear access to existing properties along the northern side of Weir Street, which would also serve as an access for emergency services.

Comments

There is no requirement for the current proposal to provide laneway access for adjoining properties.

Fencing

Who will be responsible for the installation and ongoing maintenance of fencing, particularly to the community parcel.

Comment

There is no fencing proposed as part of the current application. All internal fencing will be the responsibility of future landowners. Dividing fences are a private matter to be resolved between adjoining landowners.

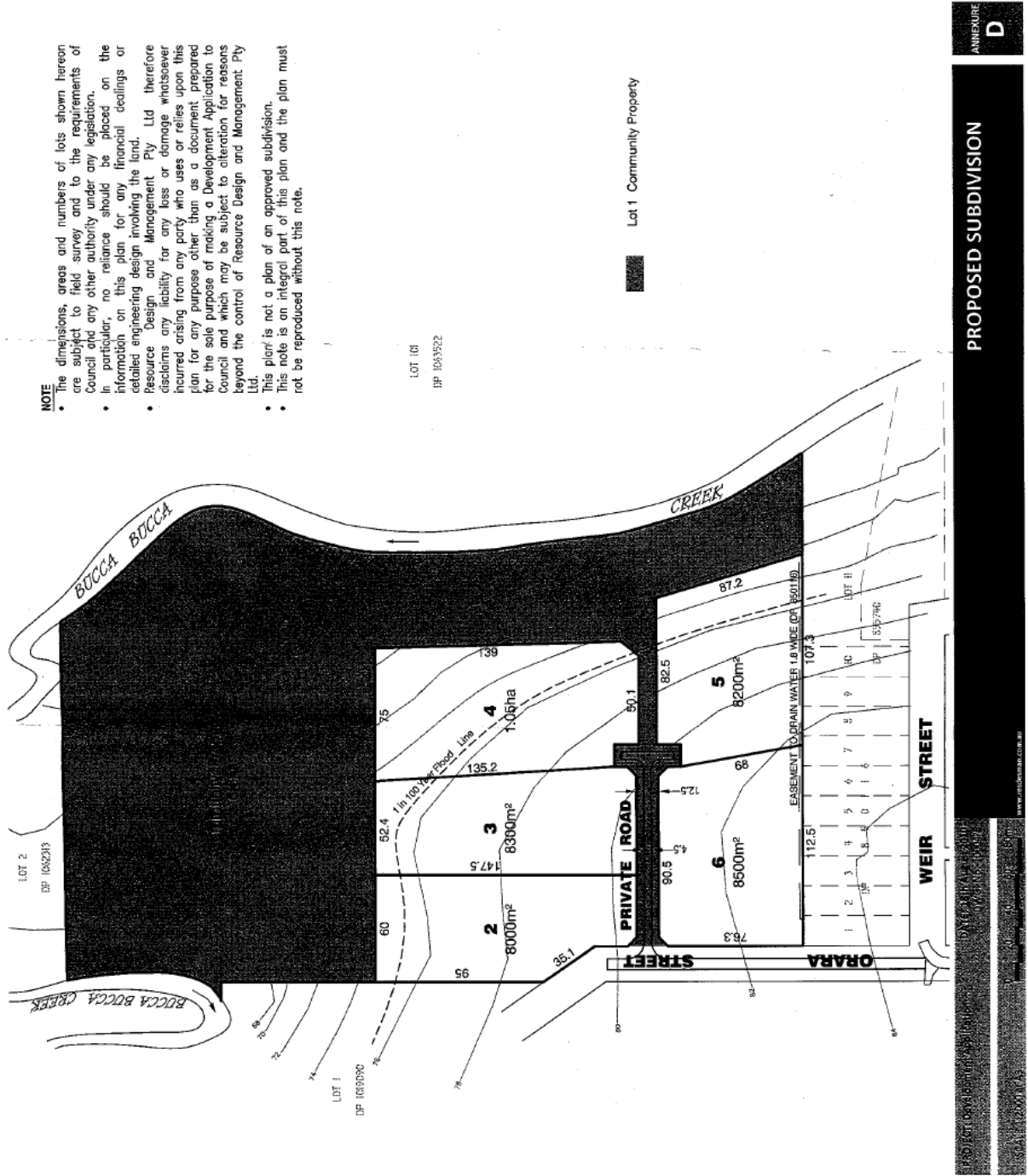
e. the public interest:

The proposed development does not present any issues that are contrary to the public interest.

Proposed Plan

NOTE

- The dimensions, areas and numbers of lots shown hereon are subject to field survey, and to the requirements of Council and any other authority under any legislation.
- In particular, no reliance should be placed on the information on this plan for any financial dealings or detailed engineering design involving the land.
- Resource Design and Management Pty Ltd therefore disclaims any liability for any loss or damage whatsoever incurred arising from any party who uses or relies upon this plan for any purpose other than as a document prepared for the sole purpose of making a Development Application to Council and which may be subject to alteration for reasons beyond the control of Resource Design and Management Pty Ltd.
- This plan is not a plan of an approved subdivision.
- This note is an integral part of this plan and the plan must not be reproduced without this note.



R D M
 RESOURCE DESIGN & MANAGEMENT PTY LTD
 PROPOSED SUBDIVISION
 ANNEXURE D

Proposed Conditions of Development Consent

Development Application No. 1196/10

Schedule of Conditions

Prescribed Conditions:

1. The proponent shall comply with the prescribed conditions of development approval under Clauses 97A, 98, 98A - E of Environmental Planning and Assessment Regulation 2000 as are of relevance to this development.

Development is to be in accordance with approved plans:

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent (Development Consent No. 1190/10).

Plan No. / Supporting Document(s)	Prepared by	Dated
Plan of Proposed Subdivision	Resource Design & Management Pty Ltd	May 2010
Statement of Environmental Effects	Resource Design & Management Pty Ltd	May 2010

Access and Services:

3. The following works:
 - The public road extension of Orara Street, to include a turning area;
 - Road drainage works to Orara Street, to include the redirection of surface drainage away from Weir Street;
 - The private road servicing the development; and
 - Piping of the interallotment drainage easement (1.8 metres wide created by DP 850116) as well as the provision of an overland flow swale. The interallotment drainage system and swale is to incorporate appropriate energy dissipation measures at the downstream end.

being provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction Specifications. These works are to be completed prior to release of the Subdivision Certificate.

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

Development Application No. 1196/10

Schedule of Conditions

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 Development Design and Construction Specifications current at a date six (6) months prior to such submission.

4. The subdivision being provided with reticulated electricity and telephone cables. The applicant shall provide a letter from Country Energy stating that satisfactory arrangements have been made for the supply of electricity and a letter from Telstra stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision / development. These letters are to be provided to Council **prior to release of each Subdivision Certificate.**

Sediment & Erosion Control:

5. Submission to Council, **prior to issue of the Construction Certificate**, of an Erosion and Sediment Control Plan, together with a management strategy, certified by a qualified Environmental or Engineering Consultant to be in accordance with the Landcom publication *"Managing Stormwater; Soils and Construction"* (the *"Blue Book"*, 4th Edition, 2004). Erosion and sedimentation controls to be implemented, managed and maintained during all development construction works and be maintained throughout the maintenance period.

During the construction stage a qualified Environmental or Engineering Consultant is to ensure that the erosion and sedimentation controls are appropriate for the site and current stage of construction.

No clearing or stripping works to be undertaken on the site until the Erosion and Sediment Control Plan has been implemented.

Prior to the issue of a **Subdivision Certificate** the site shall be stabilised to the Principal Certifying Authority's satisfaction which, as a minimum, shall be at least 50% grass cover or application of mulch or hydroseeding to all disturbed areas.

Pollution Control:

6. 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.

/3

Development Application No. 1196/10

Schedule of Conditions

7. 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**.

Vegetation Management:

8. **Prior to the issue of the Construction Certificate**, a detailed Vegetation Management Plan (VMP) for Lot 1 (community parcel) is to be submitted to, and approved by Council. The VMP shall be prepared in accordance with Council's Biodiversity Guideline No.1. In addition to the requirements of the Guideline the VMP is also required to consider the following matters:

- Long-term management of land zoned 7A Environmental Protection;
- Erection of a permanent fence 20 metres from the top of the bank of Bucca Creek;
- Rehabilitation and restoration of the land located between the fence and Bucca Creek;
- A 5 year staged eradication and replacement of Camphor Laurel and Privet along Bucca Creek; and
- Identification of any threatened species, populations or endangered communities on site that require consideration.

The detailed VMP shall be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration/stream rehabilitation practices and who is a member of the Australian Association of Bush Regenerators (AABR).

9. The initial works (other than follow up maintenance works) prescribed in the approved VMP must be completed and certified in writing to Council's satisfaction by the AABR consultant who prepared the VMP **prior to the issue of the Subdivision Certificate**.

10. The following by-law being incorporated in the Community Management Statement

The Community Association or a Subsidiary Body must at all times comply with the environmental obligations as more fully set out in the VMP.

Vegetation management works are to be undertaken by a suitably qualified and experienced bush regenerator of professional qualifications and/ or knowledge and experience extending beyond 5 years in current bush regeneration, restoration and relocation techniques. Current membership to the Australian Association of Bush Regenerators (AABR) is desirable.

The terms of this by-law may not be varied except with the prior written agreement of Council from time to time, or the successor of Council.

Development Application No. 1196/10

Schedule of Conditions

Council Access:

11. The following by-law being incorporated in the Community Management Statement:

“Council Access

- a) *Council, its servants and agents have the full and free right at all times to enter upon Neighbourhood Property and to operate vehicles and other equipment for the purpose of garbage and recycling collection, and to repair and maintain the statutory services and statutory services lines.*
- b) *Council, its servants and agents shall not be liable for any damage caused to the Neighbourhood Property arising from the operation of any vehicle or other equipment as envisaged by Clause a) except where such damage is caused by the negligence or recklessness of Council, its servants or agents.*
- c) *The terms of this clause may not be varied except with the prior written agreement of Council from time to time, or the successor of Council”.*

Cultural Heritage:

12. In the event that any material/s deemed to be of Aboriginal origin are identified during any earthworks, all works must cease immediately to enable the recording of the objects. Prior to recommencement of works the relevant licensing from the Department of Environment, Climate Change and Water being obtained and approval from the Coffs Harbour and District Local Aboriginal Land Council being obtained. In this regard, the advice is to be received from the Land Council in relation to the management and protection of the objects.

Bushfire Protection:

13. Water, electricity and gas are to comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’.
14. Property access roads shall comply with section 4.1.3(2) of ‘Planning for Bush Fire Protection 2006’.

Access to a development providing access to more than three dwellings shall comply with the width specifications of section 4.1.3(1) of ‘Planning for Bush Fire Protection 2006’.

Development Application No. 1196/10

Schedule of Conditions

Developer Contributions:

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

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

Note 2 - The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

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

	\$ Per Lot
- Coordination and Administration	348.17
- Coffs Harbour Road Network	839.16
- Surf Rescue Equipment	97.61

The Section 94 contribution is currently \$5,139.76 for the 4 additional lots proposed in the subdivision.

Contributions have been imposed under the following plans:

- Regional, District & Neighbourhood Facilities & Services 2008.
- Coffs Harbour Road Network 2008.
- Surf Rescue Equipment 2008.

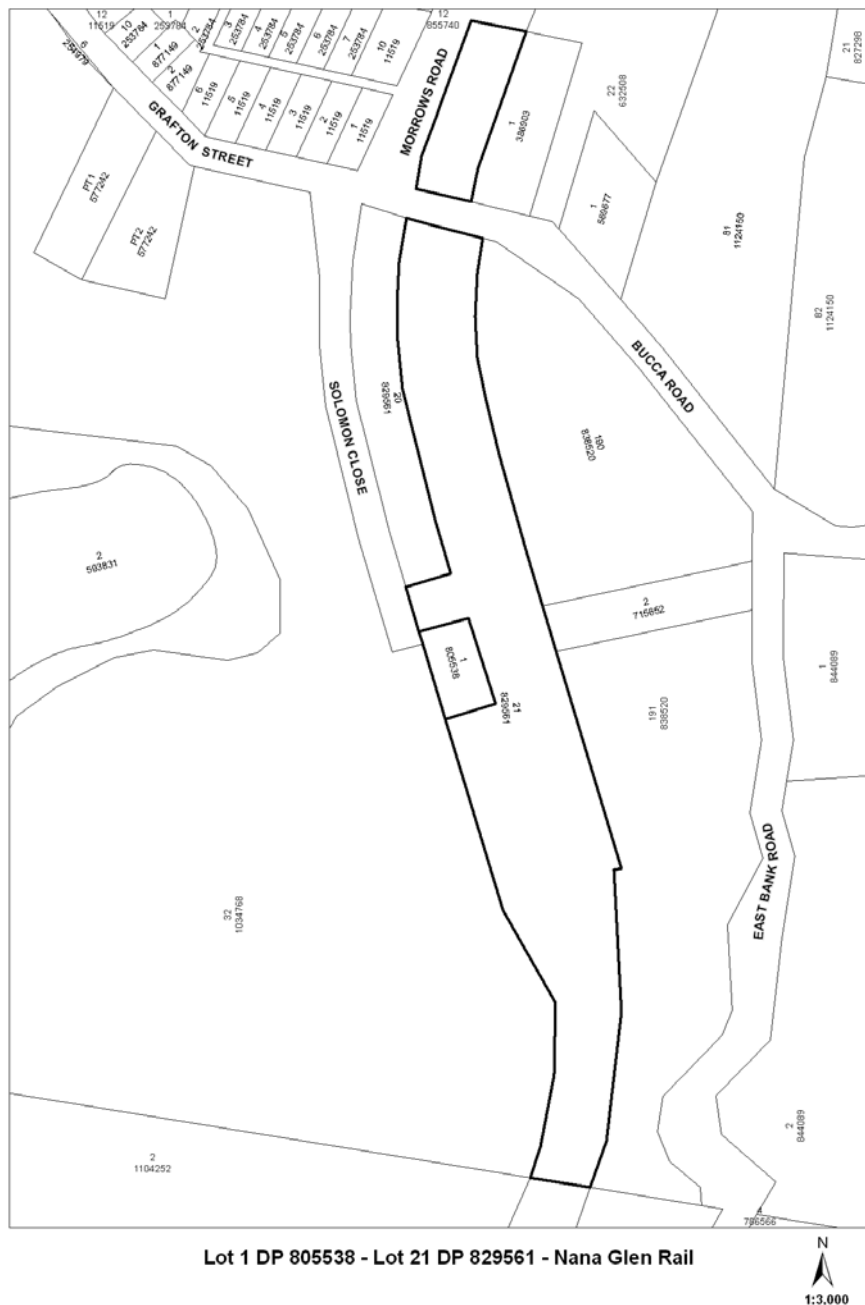
The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

L10/13 DEVELOPMENT APPLICATION 1268/10 – SUBDIVISION (TWO LOTS, INCLUDING BOUNDARY ADJUSTMENT) – LOT 1 DP 805538, SOLOMON CLOSE AND LOT 21 DP 829561, BUCCA ROAD, NANA GLEN

Purpose:

This report describes Development Application 1268/10 for a two lot subdivision, including a boundary adjustment.

The proposed development site is Lot 1, DP 805538, Solomon Close and Lot 21, DP 829561, Bucca Road, Nana Glen. Conditional approval of the application is recommended.



Cont'd

L10/13 Development Application 1268/10 – Subdivision (Two Lots, Including Boundary Adjustment) – Lot 1 DP 805538, Solomon Close and Lot 21 DP 829561, Bucca Road, Nana Glen ...(Cont'd)

Description of Item:

- **Current Application:**

The subject lots are located to the south of the Nana Glen Village. The site is surrounded by rural residential zoned land that is primarily used for grazing. The Northern Railway is located to the east of the site. Lot 1 DP 805538 contains two existing detached dwellings that were originally constructed as part of the Railway, whilst Lot 21 DP 829561 is a vacant parcel of land currently owned by the Australian Rail Track Corporation (ARTC).

There are two parts to the proposal. Firstly it is proposed to increase the area of Lot 1 by effecting a boundary adjustment with Lot 21 (i.e. Lot 1 that currently contains the detached dwellings will change in area from 1,933m² to 2,333.4m²). Secondly the expanded Lot 1 will be subdivided into two lots, which will be 1,211.5m² and 1,121.9m² in size. Access to the proposed Lot 11 will be gained via Solomon Close, whilst access to Lot 12 will be gained via a Right-of-Carriageway (ROW) that will burden Lot 11.

A copy of the proposed plan is included in this report as Appendix B.

- **Planning Circular PS 08-014 – Reporting Variations to Development Standards**

In November 2008 the Department of Planning (DoP) issued a Planning Circular outlining new requirements in relation to the determination and reporting of development applications involving variations to development standards under State Environmental Planning Policy No.1 – Development Standards (SEPP No.1). This circular requires that all applications where there has been a variation greater than 10% in standards under State Environmental Planning Policy No.1 – Development Standards be determined by full Council rather than under delegated authority.

Clause 18 (5B) of the Coffs Harbour City Council Local Environmental Plan 2000 provides that Council may grant consent to the subdivision of land zoned 1B Rural Living where each lot will be at least the minimum area specified in the Nana Glen-Bucca Development Control Plan, in this case being 1 hectare. As outlined above, the proposal seeks to create lots 1,211.5m² and 1,121.9m² in size.

As the proposal will result in lots that do not meet the required standard the applicant has submitted an objection pursuant to SEPP No.1 in support of the proposal. The SEPP No.1 objection is considered in detail in the Section 79C assessment appended to this report.

As Council is unable to assume concurrence for the proposed variation, being more than one lot below the standard, the application and accompanying SEPP No.1 Objection was referred to the NSW DoP for consideration. DoP has issued concurrence, in this instance, for the following reasons: the proposal is considered to be consistent with the objectives of the zone; each lot will contain an existing dwelling and the proposal will not increase demand for the provision of public amenities or services; and the proposal does not raise any issues of State or regional significance.

Given that the proposal involves a variation of greater than 10% to the required standard the application is referred to Council for determination, as per the requirements of the Circular.

Cont'd

L10/13 Development Application 1268/10 – Subdivision (Two Lots, Including Boundary Adjustment) – Lot 1 DP 805538, Solomon Close and Lot 21 DP 829561, Bucca Road, Nana Glen ...(Cont'd)

The Development Application file, including the application (and all supporting documents) and plans will be available in the Councillor's room for perusal prior to consideration by Council and also at the Council meeting

Sustainability Assessment:

- **Environment**

There are no matters relating to the natural environment that require detailed consideration. The subject site and surrounding area has been significantly altered as a result of past agricultural and railway land uses.

Both existing lots are devoid of any significant vegetation and the proposed subdivision and boundary adjustment will not involve the removal of any vegetation.

The proposal is not likely to result in any significant environmental impacts.

- **Social**

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality.

- **Civic Leadership**

The proposed development has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and all relevant Council controls and policies. The proposed subdivision is consistent with the aims and objectives of the Coffs Harbour 2030 Community Strategic Plan.

- **Economic**

Broader Economic Implications

There are no broader economic implications resulting from the proposal.

Delivery Program/Operational Plan Implications

There are no implications for Council's Delivery Program/adopted Operational Plan.

Consultation:

The application was not advertised or notified to adjoining landowners as it is considered that the proposed development is unlikely to result in any significant adverse impacts in the locality.

The application has been reviewed by Council's City Services (Engineering), Health (contamination and onsite effluent disposal) and Land Use Management sections and several conditions have been recommended for inclusion in any consent issued for the application. The application was also reviewed by the NSW Rural Fire Service (RFS) and the NSW DoP. The RFS has issued a conditional Bushfire Safety Authority and DoP has issued concurrence to the submitted SEPP No.1 Objection.

Cont'd

L10/13 Development Application 1268/10 – Subdivision (Two Lots, Including Boundary Adjustment) – Lot 1 DP 805538, Solomon Close and Lot 21 DP 829561, Bucca Road, Nana Glen ...(Cont'd)

Related Policy and / or Precedents:

The application is reported to Council for determination as required by the Department of Planning Circular PS08-014 of 14 November 2008 "Reporting Variations to Development Standards".

Statutory Requirements:

• **Section 79C Evaluation:**

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

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

• **Relevant Statutory Instruments:**

- North Coast Regional Environmental Plan (deemed State Environmental Planning Policy);
- State Environmental Planning Policy No. 1 – Development Standards;
- State Environmental Planning Policy (Rural Lands) 2008;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Coffs Harbour City Local Environmental Plan 2000;
- Nana Glen-Bucca Development Control Plan; and
- Subdivision Development Control Plan.

Each of these statutory instruments is considered in detail in the Section 79C assessment appended to this report.

Issues:

Council must be satisfied that the proposed variation to the 1 hectare development standard can be supported and that proposed subdivision and boundary adjustment meets the objectives of the 1B Rural Living zone. The proposal will result in two lots that recognise and formalise an historical situation involving two Railway dwellings located on the one land parcel.

The proposed subdivision and boundary adjustment is compatible with the character and amenity of the rural living environment and can be adequately serviced.

Implementation Date / Priority:

The Development Consent is valid for five years from the date of issue. The consent may or may not be acted upon. The consent may be acted upon immediately following issue date or delayed until closer to the expiry date of the consent. When the consent is acted upon is a matter of the discretion of the property owner/developer.

L10/13 Development Application 1268/10 – Subdivision (Two Lots, Including Boundary Adjustment) – Lot 1 DP 805538, Solomon Close and Lot 21 DP 829561, Bucca Road, Nana Glen ...(Cont'd)

Recommendation:

- 1. That the request for the variation to development standard, Clause 18 (5B) be supported in this particular case.**
- 2. That Development Application 1268/10 for Boundary Adjustment and Subdivision (two lots) of Lot 1, DP 805538, Solomon Close and Lot 21, DP 829561, Bucca Road, Nana Glen be approved subject to conditions appended to this report (Appendix C).**

**Mark Salter
Director
Land Use, Health & Development**

Attachments:

APPENDIX A

**Section 79C Assessment
Development Application 1268/10**

a. the provisions of,

i. any environmental planning instrument, and

• *State Environmental Planning Policy - North Coast Regional Environmental Plan*

The North Coast Regional Plan is a deemed State Environmental Planning Policy (SEPP). The proposal is considered to be consistent with the aims and objectives of the Plan. There are no clauses that are of particular relevance to the proposal.

• *State Environmental Planning Policy No.1 – Development Standards*

SEPP No.1 aims to provide for flexibility in the application of planning controls and provides a mechanism by which a development standard may be varied where it can be shown that: strict compliance with the standard is unreasonable or unnecessary; the proposed development satisfies state, regional or local planning objectives; and the proposed development is consistent with the underlying objective of the standard. Where Council is satisfied that the objection is well founded, having regard to the above considerations, consent may be granted to a development that does not meet the relevant development standard.

Clause 18 (5B) specifies that Council may grant consent to a subdivision where each proposed allotment has an area of at least the minimum area (being 1 hectare) specified in the Nana Glen-Bucca Development Control Plan.

As the proposed subdivision and boundary adjustment will result in lots 1,211.5m² and 1,121.9m² in size the applicant has submitted an objection to Clause 18(5B) (c) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to State Environmental Planning Policy No.1.

In support of the proposal the applicant contends that: the boundary adjustment and subdivision simply involves the division of land to recognise the historical context of the existing dwellings and will have no environmental impact; the proposed lot sizes are in keeping with existing lot sizes in the Nana Glen Rail Village; the proposal will have no impact on the amenity or existing character of the locality; the site is provided with adequate services; and the unusual circumstances of the case (i.e. existing historical Railway cottages) prevents the potential for an undesirable precedent in the locality.

It is considered that the proposal and accompanying objection submitted satisfy the requirements of SEPP No.1.

As Council is unable to assume concurrence for the proposed variation, being more than one lot below the standard, the application and accompanying SEPP No.1 Objection was referred to the NSW Department of Planning (DoP) for consideration. DoP has issued concurrence, in this instance, for the following reasons: the proposal is considered to be consistent with the objectives of the zone; each lot will contain an existing dwelling and the proposal will not increase demand for the provision of public amenities or services; and the proposal does not raise any issues of State or regional significance.

- ***Planning Circular PS 08-014 – Reporting Variations to Development Standards***

In November 2008 the Department of Planning issued a Planning Circular outlining new requirements in relation to the determination and reporting of development applications involving variations to development standards under State Environmental Planning Policy No.1 – Development Standards (SEPP No.1). This circular requires that all applications where there has been a variation greater than 10% in standards under State Environmental Planning Policy No.1 – Development Standards to be determined by full Council rather than under delegated authority.

As the proposal will result in lots that do not meet the standard the applicant has submitted an objection pursuant to SEPP No.1 in support of the proposal (see discussion above).

Given that the proposal involves a variation of greater than 10% to the required standard the application is referred to Council for determination, as per the requirements of the Circular.

- ***State Environmental Planning Policy No. – Rural Lands***

The proposal is considered to be consistent with the aims and planning principles outlined in the Plan. The proposal involves a boundary adjustment with a vacant lot currently owned by the Australian Rail Track Corporation (ARTC) and the subdivision of a lot currently used for rural residential purposes. The proposed subdivision and boundary adjustment will have not impact on agricultural practices.

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

The area of land currently owned by the ARTC, which will become part of proposed Lot 12, has been identified as potentially contaminated due to previous land uses associated with the Railway.

Clause 7 of the SEPP requires Council to consider the following matters in the assessment of a development application where a site is identified as potentially contaminated and is intended to be used for residential purposes:

- (a) whether the land is contaminated, and
- (b) where the land is contaminated, the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) where the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, the land will be remediated before the land is used for that purpose.

To determine the lands suitability for future residential development preliminary soil testing was undertaken prior to the lodgement of the current application, which indicated that the land is contaminated by lead. In response to this, the applicant has provided a Remedial Action Plan that examines the extent of the contamination and recommends an appropriate strategy for remediation of the site to ensure its suitability for residential development.

The developer will be required to undertake these remediation works prior to issue of the Subdivision Certificate, including providing Council with a validation report.

- **Mid North Coast Regional Strategy**

The Mid North Coast Regional Strategy is primarily an overarching document which guides Councils in setting regional parameters for future strategic planning. The proposed subdivision is consistent with the objectives outlined in the Strategy.

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

Zoning

The subject lots are zoned 1B Rural Living and 5A Special Uses and Community Purposes. The proposed development is defined as 'subdivision of land', which is identified as permissible with consent in both zones.

Clause 14 – Services

Reticulated sewer and water are not available to the site. Both existing dwellings are currently serviced by tank water. There is one existing onsite effluent disposal system servicing both dwellings. As part of the development an additional system will be provided to service the existing dwelling to be located on proposed Lot 12.

Clause 18 (5B) – Subdivision

Clause 18 (5B) specifies that Council may grant consent to the subdivision of land in the 1B zone where each proposed allotment has an area of at least the minimum area (being 1 hectare) specified in the Nana Glen-Bucca Development Control Plan. As the subdivision and boundary adjustment will result in lots 1,211.5m² and 1,121.9m² in size the applicant has submitted an objection to Clause 18(5B) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to State Environmental Planning Policy No.1 (see discussion above).

Clause (19A) – Land Zoned Special Uses 5A Community Purposes

The proposed development will include a boundary adjustment with adjoining Lot 21 (ARTC land zoned 5A) to provide additional land for the purposes of onsite effluent disposal.

Clause 19(A) specifies that Council cannot grant consent to the development of land within the 5A zone unless it is satisfied that the development is consistent with the aims and objectives of the zone and has taken into consideration any relevant plan of management or masterplan.

The area of 5A land to be used is land no longer required by ARTC and will not hamper the functioning of the balance of the land still used for railway purposes. The proposal is considered to be consistent with the aims and objectives of the zone and the land is not subject to a management plan or masterplan.

ii. The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments applicable to this application.

iii. any Development Control Plan (DCP)

- **Subdivision DCP**

The proposal is considered to be consistent with the provisions of the Plan. Access to the proposed Lot 11 will be gained via Solomon Close, whilst access to Lot 12 will be gained via a Right-of-Carriageway (ROW) that will burden Lot 11. Solomon Close at present is sealed for approximately 100 metres, after which it is unsealed for a length of approximately 200 metres. To ensure an appropriate level of access is provided the developer will be required to construct the ROW and upgrade Solomon Close to accommodate two wheel drive vehicles.

- **Nana Glen-Bucca DCP**

The proposal is considered to be consistent with the provisions of the Plan.

As outlined above, the proposal seeks to create lots that are below the 1 hectare standard contained within the DCP. The applicant has submitted an objection to this standard, which is discussed in more detail above.

Reticulated water is available to the site. Reticulated sewer, however, is not available to the site. There is currently one onsite effluent disposal system servicing both dwellings. As part of the development an additional system will be provided to service the existing dwelling to be located on proposed Lot 12.

- **Rural Lands DCP**

The proposal is considered to be consistent with the provisions of the Plan. The proposal will not have any impact on potentially productive agricultural land.

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

Clause 92 of the Environmental Planning and Assessment Regulations 2000 requires that the NSW Coastal Policy 1997, be considered in the determination of development applications. As the subject site is not located within the coastal zone, the provisions of the Policy do not apply.

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,

1. The Natural Environment

There are no matters relating to the natural environment that require detailed consideration. The subject site and surrounding area has been significantly altered as result of past agricultural and railway land uses.

Both existing lots are devoid of any significant vegetation and the proposed subdivision and boundary adjustment will not involve the removal of any vegetation.

The proposal is not likely to result in any significant environmental impacts.

2. Social and Economic Impacts

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality.

c. the suitability of the site for the development,

It is considered that the attributes of the site are conducive to the proposed development. The proposal will result in two lots that recognise and formalise an historical situation involving two Railway dwellings. The proposal meets the provisions of all relevant SEPPs and Council's DCPs/Policies.

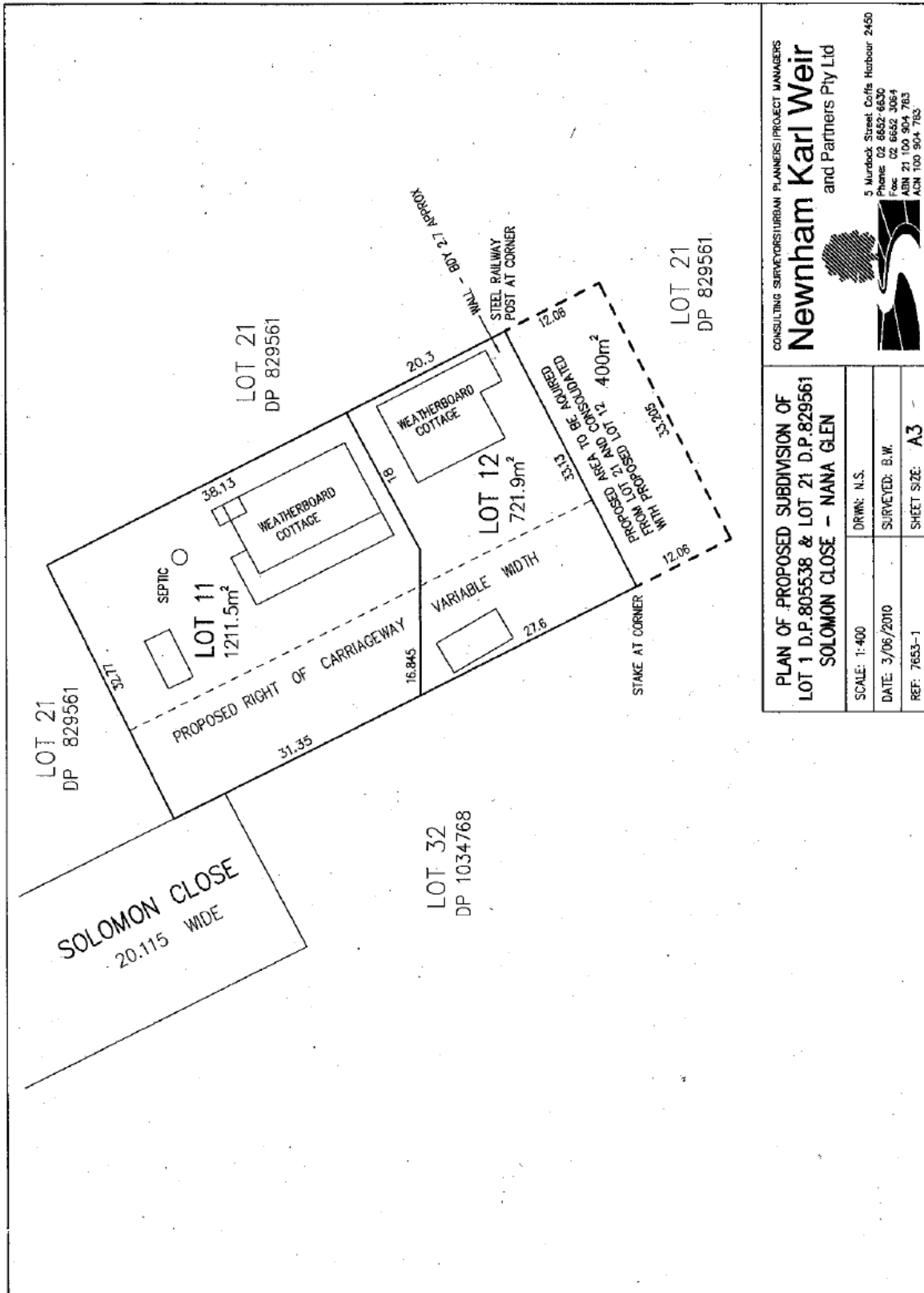
d. any submissions made in accordance with this Act or the regulations,

The application has been reviewed by Council's City Services (Engineering), Health (contamination and onsite effluent disposal) and Land Use Management sections and several conditions have been recommended. The application was also reviewed by the NSW Rural Fire Service (RFS) and the NSW Department of Planning (DoP). The RFS has issued a conditional Bushfire Safety Authority and DoP has issued concurrence to the submitted SEPP No.1 Objection.

e. the public interest:

The proposed development does not present any issues that are contrary to the public interest.

Subdivision Plan



CONSULTING SURVEYORS/URBAN PLANNERS/PROJECT MANAGERS

Newnham Karl Weir
and Partners Pty Ltd

5 Muddock Street, Coff's Harbour 2450
Phone: 02 6652 6630
Fax: 02 6652 3064
ABN 21 100 904 763
ACN 100 904 763

PLAN OF PROPOSED SUBDIVISION OF
LOT 1 D.P.805538 & LOT 21 D.P.829561
SOLOMON CLOSE - NANA GLEN

SCALE: 1:400	DRWN: N.S.
DATE: 3/06/2010	SURVYED: B.W.
REF: 7653-1	SHEET SIZE: A3

Proposed Conditions of Development Consent

Development Application No. 1268/10

Schedule of Conditions

Prescribed Conditions:

1. The proponent shall comply with the prescribed conditions of development approval under Clauses 97A, 98, 98A - E of Environmental Planning and Assessment Regulation 2000 as are of relevance to this development.

Development is to be in accordance with approved plans:

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent (Development Consent No. 1190/10).

Plan No. / Supporting Document(s)	Prepared by	Dated
Plan of Proposed Subdivision	Newnham, Karl, Weir & Partners	June 2010
Statement of Environmental Effects	Bennell & Associates	June 2010

Access and Services:

3. The following works:
 - Upgrading of Solomons Close (from the existing sealed portion to the property boundary) to cater for two wheel drive vehicles.
 - Construction of the Right of Carriageway to cater for two wheel drive vehicles.

being provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction Specifications. These works are to be completed prior to release of the Subdivision Certificate.

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 Development Design and Construction Specifications current at a date six (6) months prior to such submission.

4. An application for onsite effluent disposal for Lot 12 shall be submitted and approved by Council **prior to issue of a Subdivision Certificate**. This application should detail removal of any existing sanitary drainage to Lot 12.

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Water Supply:

5. A separate potable water supply being provided to each lot prior to issue of the Subdivision Certificate, with details of the water supply arrangements being approved by Council prior to issue of the **Subdivision Certificate**.

Pollution Control:

6. 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.

7. 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**.

Remediation Action Plan (RAP):

8. Site remediation shall be conducted in accordance with the EAL Consulting Service Southern Cross University's "Remediation Action Plan" dated 10 June 2010, included with the application. Site remediation shall occur prior to other subdivision work in the areas affected.
9. All remedial work, site assessment, validation, reporting and associated actions shall be undertaken in compliance with SEPP 55 – Remediation of Land, NSW Environment Protection Authority (EPA) Contaminated Site Guidelines, National Environmental Protection (Assessment of Site Contamination) Measure (NEPC 1999), Waste Classification Guidelines and other relevant guidelines and statutory provisions.
10. All activities shall accord with WorkCover NSW requirements and the Occupational Health and Safety Act 2000 and associated requirements.
11. Any proposed on-site containment of contaminated soil shall require further written approval of Council prior to implementation. Suitable further justification and detailed design of the containment shall be provided to Council to gain this approval.
12. A validation report shall be prepared following the successful completion of the remediation, and provided to Council within three months of the completion date, and approved by Council prior to **release of any Subdivision Certificate**. Notice to Council of compliance with Clause 17 and 18 of SEPP 55 shall be provided with the validation report.

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Bushfire Protection:

13. At the issue of a Subdivision Certificate and in perpetuity the entire property of both lots shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning fire Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

CORPORATE BUSINESS DEPARTMENT REPORT

CB10/44 BCU INTERNATIONAL LIGHTS UPGRADE - TENDER REPORT

Purpose:

To report on tenders received for Contract No 10/11-440-TO for the upgrade of BCU International Stadium lighting to 1500 lux, and to gain Council approval to accept a tender.

Description of Item:

BCU International Stadium is already widely regarded as having the best playing surface in all of regional Australia. In 2009 Council committed to upgrading the lights to 1500 lux to enable the venue to host digitally televised sporting events, as its first priority for infrastructure funding. In June 2010, Council was successful in obtaining nearly \$2.2 million under the Regional and Local Infrastructure Program for the lights upgrade. Upgrading the lights to television standard will provide the vital next step in enhancing the venue as a spectacular sporting venue, and economic driver through an array of televised sporting events.

Following the announcement of the grant funding, open tenders were called for a Lump Sum contract in local and capital city newspapers and via Council's electronic Tenderlink portal. The deadline for submission of tenders was 3:30pm on Tuesday 18 August 2010.

Tenders were evaluated on the following criteria:

- Tenderers' experience, financial capacity and Tender conformity. Tenderers must have completed at least one project involving design and construction of sports field lighting to a minimum of 500 Lux level. These criteria are hurdles and are not scored. Only conforming Tenders and Tenderers with sufficient experience and financial capacity will be considered further.
- Tender Price including whole of life costs for operation and maintenance.
- Details and logic of the tender construction program to demonstrate understanding of the scope of works and contract management skills to achieve completion on time.
- Demonstrated experience and record of performance in meeting time, cost and quality deadlines for sport field lighting for venues of a national and/or international standard.
- Preliminary design, technical data and environmental initiatives.
- Occupational Health and Safety Management Systems.

Two tenders were received from the following:

1. Musco Lighting Australia Pty Ltd
2. Webb Australia Group (NSW) Pty Ltd

Sustainability Assessment:

- **Environment**

A key component of the Tender assessment includes a weighting for environmental initiatives. All Tenderers are required to provide details on environmental initiatives that form part of the design development, construction and operation of the facility.

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A Review of Environmental Factors (REF) Part V assessment has been undertaken independently by Geolink Environmental Management and Design. The REF found that the project “would not have a significant environmental impact”.

The lighting system will be regulated to ensure only the required level of lighting is achieved based on the requirements of the particular event. For example, local amateur and semi-professional competition would use lights that are switched to 200 lux, and professional (non-televised) sport would be switched to 500 lux.

200 lux would be the most utilised setting. When compared to current usage by local sport competition, it is expected the new technology, over the typical course of its life (up to 25 years plus), will reduce the Greenhouse Gas emissions associated with running the facility by up to 40%. This reduction of energy consumption is directly linked to the more efficient lamps now available, compared with the existing installations.

- **Social**

BCU International Stadium currently hosts a myriad of sporting events, from local school carnivals, to regional, state, national and international events. Increased participation in sport leads to a healthier community.

The development of sport at a local level is directly increased as the community will be able to access professional level sportspeople at events held at the Stadium.

An increased events calendar creates jobs – directly at the Stadium in areas of food and beverage and event logistics, and indirectly due to the tourism and media benefits that will flow on.

Increased participation in sport achieves is one of Council's core visions: Coffs Harbour - *the Healthy City*, the Smart City, the Cultural City for a Sustainable Future.

- **Civic Leadership**

Relevant Coffs Harbour 2030 Community Strategic Plan Strategies include:

- Build pride and identity in Coffs Harbour as a community and a place;
- Create facilities and services that allow the community to reach its full development potential;
- Develop inclusive community, sporting and recreational activities;
- Promote healthy living;
- Encourage the provision of facilities, services and resources which attract and support young people;
- Provide opportunities for all, including the Aboriginal community, to contribute to the local economy.

This upgrade positions BCU International Stadium as the only regional venue able to host televised events, and the only venue between Newcastle and the Gold Coast with 1500 lux (digital television) and 500 lux (professional sport) lighting capabilities.

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- **Economic**

Broader Economic Implications

Sport tourism currently injects an estimated \$30 million into the Coffs Harbour economy. The upgrade of lighting to 1500 lux digital broadcast standard will enable Coffs Harbour to host televised and major events of all codes of football and other sports.

Delivery Program/Operational Plan Implications

This project is funded by a \$2,155,560 (ex GST) Regional and Local Community Infrastructure Program grant from the Federal Department of Infrastructure, Transport, Regional Development and Local Government.

Due to the efficiencies of current lighting technology, the upgraded lighting system is expected to save on operating costs, compared to the current system (installed in 1994).

The project expenses are detailed in the confidential attachment. The Country Energy component of the project has been costed in both tenders, however a final amount for this component will not be known until the final Country Energy design is approved. A small contingency in the project budget has been allowed to cover this and other unexpected costs.

Consultation:

The tender review panel consisted of three Council officers who also received technical advice and clarification from the project electrical consulting engineer, Gary Seeto from the Seeto Group. The Stadium lights upgrade project has been managed by Sports Unit and overseen by the Project Team which is made up of officers from all relevant Council departments (Business Units, Sports Unit, Engineering Services, Contracts and Subdivision, Land Use Health and Development, Economic Development Unit, Community Liaison and Finance).

Related Policy and / or Precedents:

Tendering procedures were carried out in accordance with Council policy. Council's Tender Value Selection System was applied during the tender review process to determine the most advantageous offer.

Council's policy is that the tender with the highest weighted score becomes the recommended tender.

Statutory Requirements:

The calling, receiving and reviewing of tenders was carried out in accordance with Part 7 Tendering of the Local Government (General) Regulations 2005.

Musco Lighting's Tender contained errors or anomalies in their Schedule of Rates. These rates are used to value contract variations. Rather than tendering fixed rates as required Musco tendered rates subject to rise and fall in the cost of materials and added a markup for handling, profit and overheads due to the current economic conditions.

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Webb Australia were also non-conforming in that they did not tender rates for work deleted from the contract.

Rather than considering both Tenders non-conforming and therefore rejected, all Tenderers were given the opportunity to vary their Tenders to correct the errors in accordance with Clause 176 of the Local Government (General) Regulation 2005.

176 Tenders may be varied in certain circumstances

- (1) *At any time before a council accepts any of the tenders that it has received for a proposed contract, a person who has submitted a tender may, subject to subclause 2, vary the tender:*
 - (a) *by providing the council with further information by way of explanation or clarification, or*
 - (b) *by correcting a mistake or anomaly.*
- (2) *Such a variation may be made either:*
 - (a) *at the request of the council, or*
 - (b) *with the consent of the council at the request of the tenderer, but only if, in the circumstances, it appears to the council reasonable to allow the tenderer to provide the information or correct the mistake or anomaly.*
- (3) *If a tender is varied in accordance with this clause, the council must provide all other tenderers whose tenders have the same or similar characteristics as that tender with the opportunity of varying their tenders in a similar way.*
- (4) *A council must not consider a variation of a tender made under this clause if the variation would substantially alter the original tender.*

The variations to both Tenders are not considered substantial alterations as the scheduled rates did not play a substantial part in the assessment of Tenders. The tender variations are more advantageous to Council as they substantially reduce financial risk associated with contract variations.

Issues:

Assessment of the tenders is contained in the attached confidential supplement.

Both tenders submitted good designs meeting the brief and adhering to relevant Australian standards for sports ground lighting, free TV lighting guidelines, and AFL lighting guidelines.

Both tenders listed experienced suppliers as part of their submissions and relied on the same local electrician for onsite electrical works.

The Musco Lighting Australia tender highlighted their experience in design and construction of lighting systems at the 1500 lux level.

The Webb Australia Group tender while being very thorough in demonstrating their design expertise in lighting systems lacked certainty regarding who would be managing the construction phase and their experience and performance.

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Implementation Date / Priority:

A contract can be awarded upon Council's resolution to accept a tender. Failing any unforeseen events it is expected that the works will be completed by 14 February 2010 with a contract completion time of twenty two (22) weeks

Recommendation:

That Council consider tenders received for BCU International Stadium Upgrade of Lighting to 1500 lux, Contract No. 10/11-440-TO, and move the motion as detailed in the confidential attachment