



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
12 JULY 2012

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CONFIDENTIAL ITEM		
The following item either in whole or in part may be considered in Closed Meeting for the reasons stated:		
CB12/57	TENDER: SUPPLY AND INSTALLATION OF RELOCATABLE COMMUNITY AMENITY - WOOLGOOLGA LAKESIDE CARAVAN PARK - CONTRACT NO. RFT-541-TO	79
A portion of this report is 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		
(iii) reveal a trade secret.		
and in accordance with Section 10A (1) the meeting may be closed to the public.		
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COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

12 JULY 2012

Mayor and Councillors

GENERAL MANAGER'S REPORTS

GM12/21 REQUEST FOR RE-NOMINATIONS FOR THE NORTHERN JOINT REGIONAL PLANNING PANEL

Purpose:

The purpose of this report is for Council to re-nominate 2 Council members plus an alternate member to the Joint Regional Planning Panel (Northern Region).

Description of Item:

The Northern Joint Regional Planning Panel (JRPP) is made up of 5 members. Three of the members, plus alternates are appointed by the Minister. Two members, plus an alternate, are nominated by Council for appointment by the Minister.

The Minister for Planning and Infrastructure, the Hon Brad Hazzard MP has written to Council (on 26 June 2012) to advise the re-appointment of all State members and the State member alternates up to 30 June 2013. This one year appointment term is seen as an interim measure pending the implementation of the NSW Planning review. Accordingly the Hon Gary West, Ms Pamela Westing and Dr John Griffin have been appointed to the Northern JRPP.

The Minister for Planning and Infrastructure has requested that Council confirm its nominees to the Northern JRPP, noting that councils nominees to the Panels are limited to 3 year terms of appointment and noting that JRPPs commenced on 1 July 2009.

A copy of the Minister's correspondence is appended to this report.

Sustainability Assessment:

Sustainability assessments pertaining to developments determined by the Panel are prepared as part of the evaluations of the individual development applications.

Cont'd

**GM12/21 Request for Re-nominations for the Northern Joint Regional Planning Panel
...(Cont'd)**

Issues:

The Northern JRPP has determined a number of major projects in the Coffs Harbour local government area (LGA) since its inception in 2009. The operation and decision making of the Panel has been orderly and proper. The Panel has set operating procedures and a Code of Conduct in terms of its functions.

No change to the current remuneration fees for Council nominated members of the Northern JRPP is proposed at this time.

This report recommends the reappointment of the current Council members of the Panel being the Mayor, General Manager (or nominee) and the Deputy Mayor (alternate member). In line with the Minister's approach for State members the reappointment should expire on 30 June 2013.

Implementation Date / Priority:

Council's re-nominations need to be submitted to the Minister as soon as possible. The next Northern JRPP meeting for the Coffs Harbour LGA is schedule for 18 July 2012.

Recommendation:

That Council re-nominates the following persons to be members of the Northern Regional Joint Planning Panel:

- **Mayor**
- **General Manager (or nominee)**
- **Deputy Mayor (alternate member)**

up until 30 June 2013.

Attachments:



The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW

Mr Steve McGrath
Coffs Harbour City Council
Locked Bag 155
Coffs Harbour NSW 2450

26 JUN 2012

12/06704

Dear Mr McGrath,

Joint Regional Planning Panel reappointments

I am pleased to advise you I have decided to re-appoint all State members and alternates of the Joint Regional Planning Panels for a period of 12 months up to 30 June 2013 as an interim measure, pending the implementation of the NSW planning review. Accordingly, the Hon Garry West, Ms Pamela Westing and Dr John Griffin have been re-appointed as State members to the Northern Joint Regional Planning Panel (regional panel).

In accordance with the changes to regional panels made in 2011, the Local Government and Shires Associations have endorsed the appointment of Mr West as the regional panel chair.

In contrast to previous arrangements, all alternates will be appointed as alternates for every regional panel (except where they are already a state member). This will create a 'pool' of alternates that can be drawn upon to assist regional panels in the event of there being any conflict of interest, panel member absences or when additional meetings are required.

A table outlining all State members and alternates of the regional panel is enclosed (Annexure A).

Council nominations

I would also like to take this opportunity to remind you that Council is required to nominate 2 persons as council nominees to the regional panel. In accordance with Schedule 4 of the *Environmental Planning and Assessment Act 1979*, at least one of the nominated persons must have expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

Councils were previously asked to nominate members for a period of up to 3 years. If you have nominated members, I request that you confirm your council nominees with the Regional Panels Secretariat before their current term expires.

Remuneration

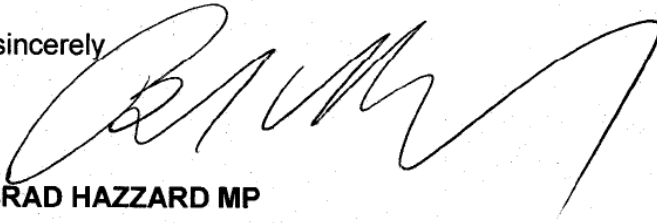
As with the previous arrangements for remuneration, the Department of Planning and Infrastructure will meet the remuneration of State members of the regional panels. The government has also determined that the fees for council nominated members are to remain a matter for each council to establish or modify, as appropriate. However, the following should be considered when setting fees:

- *Council staff members:* No fees should be paid, as participation in the regional panel would form part of the employee's regular duties, consistent with the Department of Premier and Cabinet *Guidelines for NSW Board and Committee Members: Appointment and Remuneration* (the DPC Guidelines).
- *Elected councillors:* As councillors already receive an annual fee set by the Local Government Remuneration Tribunal each year for performing their councillor duties, an additional per meeting fee is reasonable, recognising that membership of the regional panel brings additional responsibilities.
- *Community members:* Each council may determine an appropriate level of remuneration for that person, by arrangement with that member, with your Council's current rates used as a guide when determining appropriate remuneration rates.

I would like to take this opportunity to thank you for your Council's ongoing co-operation and support with the regional panels.

Should you have any enquiries in relation to this matter, I have arranged for Ms Paulina Hon, Regional Panels Secretariat, to assist you. You can contact Ms Hon on 02 9228 2061.

Yours sincerely



HON BRAD HAZZARD MP
Minister

Annexure A

Membership of the Northern Joint Regional Planning Panel

Chair	Members	Usual Alternates*	Pool of Alternates
Garry West	Pamela Westing John Griffin	Bruce Clarke	Bob McCotter Bruce Clarke Jason Perica** John Colvin Julie Savet Ward Kara Krason** Lindsay Fletcher Mark Grayson Stuart McDonald Terri O'Brien Timothy Moore Ruth Fagan ⁺ Gordon Kirkby ⁺

*These are the existing alternates for the respective regional panels and given their experience they are likely to remain the first choice as alternates for their respective regions. The new arrangements will, however, allow for all alternates to work for any regional panel.

** Alternate for all regional panels (except Hunter and Central Coast)

⁺ Alternate for all regional panels (except Western)

Purpose:

Report advising that conference motions to be considered at the next LGA Conference are issues and matters of significant policy.

Description of Item:

The 2012 Annual Conference will be held 28 to 30 October 2012 and will be hosted by Dubbo City Council.

Over the years the Conference Committee has attempted to take motions to the highest sector wide strategic levels. In 2009 the conference suspended standing orders to hold a discussion in relation to the types of motions which should be dealt with by the Conference. At the conclusion of the debate the Conference resolved in part that for future years for a motion to be considered as Category 1 it must seek to establish new policy or amend existing policy and it must be of regional, state or national significance.

As outlined in the attached letter dated 19 June 2012 (Attachment 1) from the Local Government Association:

"Motions submitted for the 2012 Conference should be written to address strategic Local Government sector issues rather than specific single local issues."

In future, motions will be considered under one of four subject headings:

1. Services
2. Infrastructure
3. Finance
4. General Manager's Items.

The Association seeks all conference motions to be submitted no later than close of business Wednesday, 15 August 2012.

The Constitution of the Local Government Association, cl. 13 (a) provides a scale for the number of delegates entitled to vote at each Annual Conference, Coffs Harbour City Council falls within Group 4 on the scale, with a population of between 50,000 and 100,000, thereby entitling the Council to be represented by four voting delegates.

To facilitate the representation of Coffs Harbour City Council at the 2012 LGA Annual Conference Council needs to nominate its four Voting Delegates.

Sustainability Assessment:

- **Environment**

Issues dealing with the environment are a regular feature on the agenda of the conference. The Annual Conference debates changes to policy and strategy.

Cont'd

- **Social**

Social issues are also debated and policy and strategy adopted. Councillors attending are able to network socially with their colleagues from councils across the state and interchange ideas and best practice.

- **Economic**

Broader Economic Implications

There are no economic implications associated with this report.

Delivery Program/Operational Plan Implications

There are no Delivery Program or Operational Plan implications.

Consultation:

Council has submitted motions to previous conferences.

Related Policy and / or Precedents:

Council considers conference motions each year.

Statutory Requirements:

There are no statutory requirements associated with this report.

Issues:

Council representatives have regularly attended the Annual LGA Conference. Council is permitted to register four (4) voting delegates.

As conference motions are due on the 15 August 2012, Councillors should give consideration to any matters they wish to raise and advise the General Manager so that a report can be prepared for the next Council meeting.

For further information please refer to letter from Local Government Association of NSW dated 14 December 2011 (Attachment 2).

Recommendation:

1. **That Councillors submit any motions in line with the Local Government Association of NSW requirements to the General Manager by 27 July 2012.**
2. **That a separate report be submitted to Council in October 2012 after the Local Government Elections, for Coffs Harbour City Council to nominate four (4) Councillors as voting delegates for the 2012 LGA Annual Conference.**

Local Government
Association of NSW



19 June 2012

Mr Steve McGrath
General Manager
Coffs Harbour City Council
Locked Bag 155
COFFS HARBOUR NSW 2450

Dear Mr McGrath,

Local Government Association Conference Motions

As outlined in my letter to member Councils sent in December 2011 the LGA Executive would prefer to see motions focused on strategic issues and matters of significant policy considered by the Annual Conference.

Motions submitted for the 2012 should be written to address strategic Local Government sector issues rather than specific single local issues. For example, a specific local issue regarding the repair, upgrade, or maintenance of a particular local bridge or road should be couched in terms of the strategic need for more funding for Local Government for infrastructure in regional areas perhaps using the specific location/issue as an example.

2012 Motions will be considered under one of four subject headings:

1. **Services** (human services, environmental services, library services, cultural programs, recreation programs, health protection and promotion, development approvals, environmental regulatory activity etc)
2. **Infrastructure** (issues relating to transport, roads, bridges, footpaths, open space, water & sewerage facilities, waste facilities & services, recreation facilities, arts facilities, civic buildings etc)
3. **Finance** (revenue raising, government funding, cost shifting, emergency services levy, waste levy, carbon tax, economic development etc)
4. **General** (land use planning, development approvals, environmental regulatory activity, workforce planning & development, industrial issues, etc)

Motions will be determined to be either Category 1 or Category 2.

Category 1 motions must seek to establish a new policy or position or amend existing policy AND it must be of regional, state or national significance.

Category 2 motions are motions which are already covered by existing policy or subject to ongoing lobbying and/or representation. Category 2 motions will be dealt with by the Executive and not by the Conference.

Where Councils submit similar motions on related topics, these motions may be grouped and the strategic issue debated at Conference to arrive at a 'Local Government Industry' position.

Late motions will not be accepted unless the matter is both urgent and emergent.

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ABN 49 853 913 882

Please consider the following when structuring a motion.

Each motion:

- Should nominate the Council proposing the motion
- Should identify which of the 4 subject headings is applicable
- Have a title heading
- Should commence with the words, "That the Local Government Association..." so as to direct the Association to undertake some kind of action, be it lobby/write to/make representation to etc
- Must be accompanied by a "Note from Council" which should explain the reason for the motion

For example:

Name of Council: XXXXX

Subject Heading: Services

Title: Public Housing

Motion: That the Local Government Association lobby the NSW Government to undertake a full investigation of public housing provision and management in NSW.

Note from Council: XXXXXXXXXX

Deadlines

Councils may submit motions anytime from up until COB Wednesday 15 August 2012.

Submitting a motion

All motions must be submitted using the Associations online system which can be accessed using the link address below.

<https://lgsa.wufoo.com/forms/z7q0a9/>

To access the system:

1. Type link address into your web browser.
2. Complete the online form filling in all required fields marked with a red asterisks (*)
3. Once the form has been completed, click the "Submit" button located at the bottom of the page. Note you will have to enter each motion separately.
4. When you 'submit' each motion you will receive an email confirming its lodgement.

Any amendments will need to be submitted via email to bilyana.mitrevski@lgsa.org.au

For any further information or questions, please contact Bilyana Mitrevski on 02 9242 4035
or bilyana.mitrevski@lgsa.org.au

It would be appreciated if you could ensure your Council is aware of these guidelines and deadlines as you prepare your motions for Conference.

Yours Sincerely,



Cr Keith Rhoades AFSM
President

Local Government
Association of NSW



14 December 2011

Mr Steve McGrath
General Manager
Coffs Harbour City Council
Locked Bag 155
COFFS HARBOUR NSW 2450

Dear Mr McGrath,

2011 LGA Conference

All member Councils will be well aware of the issues regarding the lack of quorum at the recent LGA conference which resulted in the early conclusion of the Conference, and in turn left motions to be dealt with by the Executive.

A number of letters were received by the Association following the Conference, and the issues raised including the matter of quorum were considered by the LGA Conference Committee on 1 December 2011 and the LGA Executive on the 2 December 2011.

The purpose of this letter is to advise members of the outcomes of these discussions, provide some background on why some decisions were taken in relation to the 2011 Conference and to provide members with an indication of the actions proposed for future conferences.

It is a necessarily long letter as I have attempted to take the time to explain the thinking and planning which goes into making a Conference. Organising an annual LGA conference is no easy task, and is the result of many months of planning, negotiating and logistics. This letter also seeks to address various issues raised by councils in letters received by the Association following the 2011 Conference.

For those councils and delegates who provided feedback by letter, verbally or through the feedback forms I hope this goes a significant way to addressing your concerns. If however you have questions which remain unanswered or other points you would like clarified, please do not hesitate to contact me at the Association. Your feedback is important, and as I explain later in this letter, your support for the process is critical to ensuring future conferences are successful.

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Executive Summary

By way of an "Executive Summary" the LGA Executive, at its meeting of the 2 December 2011 following lengthy discussion and feedback from the LGA Conference Committee resolved as follows:

That the following six (6) procedural points be adopted for the next Conference:

1. **The Conference will commence with the Opening Ceremony on the Sunday and will conclude with the Gala dinner on the Tuesday night, i.e. there will be no Wednesday sessions**
2. **Opening ceremony – there will be no change to the general format of the Opening ceremony and it will be followed as usual by the President's Reception on the Sunday night.**
3. **Long Service Awards will be handed out at the opening ceremony to reflect the importance and stature of the awards and their recipients.**
4. **The Standing Orders will be amended to outline the types of motions permissible.**
5. **No late motions will be accepted, but motions which are both urgent and emergent may be considered by the Conference.**
6. **So far as possible (which may depend on the availability of ministers and guests) the first session on the Monday will be devoted to dealing with motions.**

Note that the Executive, in accordance with Rule 24(a) will determine which motions received from Councils will be put before Conference – this is explained in more detail later in this letter

Considerations prior to the 2011 Conference

The LGA Executive has a formal Conference Committee which manages the direction of the annual Conference. Following each Conference, the feedback provided by members is closely examined and the Conference program and general running is modified accordingly with a view to making each Conference better than the ones before.

Each year there are a number of issues which need to be factored into the planning of the Conference:

The Purpose/s of the Annual Conference

It has been long accepted that the Annual Conference forms an important date in the calendars of member councils and their Councillors. The Conference is important for a number of reasons;

- it allows member's delegates to debate motions on matters of policy – this to a large extent sets the Association's agenda for the following year;
- it allows for the provision of important political and sector updates and an exchange of information through a mixture of Minister's speeches and/or presentations, and addresses by the Premier and leaders of the major parties;
- it allows for an educative and informative component, by way of expert speakers (for example Bernard Salt in 2011); it allows for networking opportunities – and the importance of this cannot be overestimated, the LGA Conference provides one of the few annual events where elected representatives can network amongst their peers; and,
- it allows related industry updates (for example from Statecover Mutual, an organisation which provides member councils with workers compensation insurance at very competitive rates).

For these reasons the LGA Conference Committee have preferred a program which contains a mix of motions, with guest speakers, Ministers and time set aside for networking.

Election of Executive Members

Years in which there are elections for the Executive are necessarily arranged differently from those years when there are no elections.

2010 was an election year, with the elections being held across the Monday and the Tuesday of the Conference. Members may recall that the Conference failed to maintain quorum on a number of occasions. There were a number of reasons for this; many delegates were involved in election matters either voting, handing out how-to-vote forms or scrutineering; the space available for voting proved inadequate for the number of voters which caused significant queues and delays; and the rules at the time required voting delegates to vote for each of the positions on separate occasions.

To rectify these issues, for 2011, which was also a voting year, agreement was reached with the Australian Electoral Commission to hold the ballot for all positions at the same time, ensuring voting delegates needed to line up and vote on only one occasion. Further, it was decided to hold debate on motions over until the second day, at which time all voting requirements would be concluded and all delegates would be able to attend the debate sessions. In

addition, the AEC, armed with the learnings from 2010 allocated a larger space for voting, and had increased their available resources, which in turn allowed for the smoother voting arrangements this year.

(note in future voting will revert back to a 2 year cycle, the 1-year cycle from 2010-2011 was required to push the election of LGA Executives out of cycle with the general Local Government elections)

Time provided for debate

Providing adequate time for debate is always a challenge as the number of motions which eventually come before Conference is not known until the time for receipt of motions closes, which is well after the time the programme needs to be in place and invitations must be issued. Late motions are even more problematic. 4 hours and 50 minutes was set aside to deal with motions in 2011. This amount of time was not enormously dissimilar from previous years, for example in 2010 (Albury) 4 hours and 25 minutes was set aside for motions, 2009 (Tamworth) 6 hours and 5 minutes, and in 2008 (Broken Hill), 4 hours and 30 minutes.

The issue for 2011 was not the amount of time allocated, but the lack of quorum which led to the Conference concluding early.

Premier, Ministers and invited guests

As a matter of course, the Premier and the Minister for Local Government are invited each year to address the Conference. Usually the Leader of the Opposition (or other representative) is invited, and more recently so is a representative of the Greens.

Other Ministers may be invited depending upon the "hot topic" issues of the day, or if a panel session has been programmed.

It is rarely possible to schedule ministers into the Programme at times which ideally suit said Programme. More often than not, a Minister's appearance is the result of weeks or months of negotiating times and availability, which often results in other aspects of the Conference being rescheduled around the availability of the Minister/s. This is unavoidable and depends on parliamentary sitting days, cabinet meetings and general logistics (for example, the current NSW Government has indicated that they will not charter flights, and therefore will have to rely on commercial flights. This will have implications for the Program for Dubbo in 2012).

Sponsors

The LGA Conference is heavily sponsored. In 2011 more than 50 sponsors were represented at the conference.

Revenue derived from these sponsors was equivalent to approximately 34% of the total receipts.

Delegate registration fees were \$1,089 (including GST) for early bird registration or \$1,155 (including GST) for normal registrations. These rates include all morning teas, lunches, afternoon teas, food and beverages at the President's Reception and at the Gala Dinner, and all entertainment. These rates are exceedingly competitive when compared to commercially run conferences of a similar length however, they are only made possible as a result of the sponsorships. Without the sponsorships registration fees would be considerably higher.

In return for the sponsorship the sponsors require access to delegates via their tradestalls and/or via short speaking opportunities. This is achieved by ensuring delegates have the time to visit the trade stall (during morning teas, lunches and afternoon teas, etc), and by including short sponsors messages during the Conference sessions at appropriate times. These simply must be factored into the Conference programme.

General Issues and Matters Arising from 2011

The Quorum

The Association has received a number of letters regarding the quorum, with many suggesting the quorum needs to be changed in various ways.

It is not possible to change the quorum.

Our understanding of the quorum is derived from Clause 21 of the Rules of the Association which states:

"The quorum for a Conference shall be fifty (50) percent of delegates and members of the Executive Committee to the Conference plus one (1). The business of a Conference shall not be conducted unless a quorum is present."

It follows from this that the number of delegates and Executives must be the total number of "allowable" delegates to the Conference, with this number being the sum of all the delegates and Executives who could legally vote if all member Councils provided their full voting complement. For 2011 this number was 404, which made the quorum 203.

This is logical and is similar to that of a Council. If a Council consists of 12 Councillors, a quorum is 7. It makes no difference if a Councillor is absent or unable to attend a meeting, the quorum does not change.

Despite this understanding, following the 2011 Conference, advice was sought from Fair Work Australia as to whether the Quorum could be changed. The Association is a Federally Registered organisation and falls under the auspices of Fair Work Australia.

Fair Work Australia's response in part states:

"Rule 21 of the rules of the LGANSW("the rules") provides the following:

... "The quorum for a Conference shall be fifty (50) percent of delegates and members of the Executive Committee to the Conference plus one (1). The business of a Conference shall not be conducted unless a quorum is present."

*That rule does not appear to contemplate that 50% of delegates and members of the Executive Committee plus one of those **who have registered to attend** the Annual Conference is sufficient to form a quorum.*

*Further, the suggestion that a quorum could consist of 50% of delegates and members of the Executive Committee plus one of those **who actually attend** is clearly inconsistent with the purpose and concept of a quorum. A quorum must be achieved first for a meeting (or in this instance a conference) to have any legal effect.*

Given the above, and the content of rule 21 of the rules, it is my view that it is not possible for the LGANSW to hold a valid Annual Conference with a quorum less than the prescribed number of delegates for each member as set out in rule 19 of the rules. The plain reading of rule 21 of the rules indicates that a quorum can only be formed by "fifty (50) percent of delegates and members of the Executive Committee to the Conference plus one (1)". It does not refer to 50% of delegates who have registered to attend or qualify the quorum requirement in any other way."

The point needs to be made however, that even if the quorum could be changed, this does not mean it should be changed. The LGA is an Association of Councils. The annual Conference is the primary policy setting forum for the Association. Important points of policy, to be effectively lobbied, must be supported by the majority of members. To take an extreme example, it is possible (under the current rules) that if the Conference manages only to achieve a quorum of 203 (from 403 potential delegates), a motion could be carried by only 102 delegates. Whilst it is perfectly legitimate for a motion to be

carried by just over 25% of the total potential delegates in this scenario, it is certainly not ideal, and has the potential to be destabilising.

The situation would be made significantly worse if the quorum could be made smaller, imagine if Association policy was set by the resolution of say just 50 delegates?

Proxy Voting

Clause 15 of Schedule C of the Rules deals with the issue of proxy voting for the purposes of voting for the election of members of the executive. This Clause reads as follows:

"If a delegate of a member or a member of the Executive Committee cannot for any reason be present at the Conference to vote in any election (hereafter referred to as "the absentee"), the absentee may by notice in writing signed by the absentee and delivered to the Returning Officer prior to the commencement of the Conference appoint a person to exercise the absentee's right to vote in the election as follows:

(a) in the case of a delegate from a member – another delegate from that member;

or

(b) in the case of a member of the Executive Committee – another member of the Executive Committee."

This clause was a necessary inclusion into the rules some years ago because the Fair Work Registered Organisations Act requires that within a registered organisations' rules that there be some provision to allow absentee voting. This proxy voting methodology meets the requirements of the Act. The alternative to permitting proxy voting is to hold the elections by way of postal ballot.

Note that proxy voting is not permitted in relation to voting for motions.

Delegate replacement during Conference

A number of councils indicated that provision should be made within the rules to replace a delegate who leaves the Conference for any reason with another delegate from the same Council.

This provision has long existed within the rules.

A council can change a delegate during the Conference by simply having the Mayor or General Manager complete a "Change of Delegate" form, which can be sourced from the LGA on-site Conference office. Rule 30 sets out the requirements:

- “(a) Each member shall nominate its delegates to a Conference by such date as the Secretary General may specify. Thereafter no alteration to the list of delegates shall be permitted other than as hereinafter provided.*
- (b) If it is desired to change the nomination of a delegate prior to the first day of the Conference written notice shall be given to the Secretary General or his or her nominee of the name of the delegate being replaced and the name of the substitute delegate. Such notification shall be signed by either the Mayor or the General Manager of the council, or the Chairperson or Chief Executive Officer of the Aboriginal Land Council. The badge of the delegate being replaced shall be surrendered by that person to the Secretary General or his or her nominee and replaced with a new badge.*
- (c) If it is desired to change the nomination of a delegate on or after the first day of the Conference written notice in accordance with sub-rule (b) of this Rule shall be given. In addition, the delegate's badge of the person being replaced as a delegate shall be surrendered to and destroyed by the Secretary General or his or her nominee before a fresh badge is issued to the incoming delegate.”*

“Strategic” Motions

A great deal of discussion takes place after every LGA Conference regarding the types of motions which come to Conference and their relative “strategic” value.

The LGA Executive would prefer to see fewer but much higher level and more strategic motions and matters of significant policy considered by Conference.

Motions should be constructed to address issues at the highest sector wide level possible, for example, an issue regarding a local bridge which is in a state of disrepair is not, so far as the Association should be concerned about the local bridge – it is about local government financing and infrastructure, capacity building, tourism and subsequent revenue implications etc.

Over the years the Conference Committee has attempted to take motions to the highest sector wide strategic levels. In 2009 the conference suspended standing orders to hold a discussion in relation to the types of motions which should be dealt with by the Conference. At the conclusion of the debate the Conference resolved in part:

"That for future years for a motion to be considered category 1, it must seek to establish new policy or amend existing policy AND it must be of regional, state or national significance."

Whilst this resolution provided a solid indication that the Conference Committee was "on the right track" with attempting to take motions to a higher level many councils continue to submit motions which are less than desirable.

The resolution also did not effect a rule change, and this remains the issue.

The Conference is "...the supreme policy making body of the Association..." (Rule 16) which needs to be considered in conjunction with Rule 24, which deals with the matter of motions:

- "(a) A member may bring any matter before a Conference of the Association for opinion or action by forwarding a statement to the Secretary General not less than fourteen (14) days prior to the first day of the Conference and the Secretary General shall, subject to any direction from the Executive Committee of the Association, place such business upon the Business Paper for the consideration of Conference.*
- (b) Where the Secretary General receives a statement from a member that it wishes to bring a matter before a Conference and less than fourteen (14) days notice has been given, the Executive Committee may allow the matter to be considered by the Conference as a late item.*
- (c) A Conference may, should a majority of the members present so approve, consider any business not introduced as provided for by the foregoing paragraphs, subject to at least 24 hours notice thereof being given."*

The essence of this rule means that any member can bring to conference, any matter it sees fit to do so.

The LGA Executive can, in accordance with clause 24(a) direct the Secretary General not to include a certain motion or motions into the business paper; however a member council would retain the right to seek the Conference's approval to deal with their motion or matter in any case.

Whilst the LGA Executive is happy to use the provisions within 24(a) to limit the number or types of motions to conference **and intends to do so for the 2012 Conference**, it will only be meaningful if the Executive carried the majority support of the Conference to ensure any such decisions are not overridden by the Conference.

"Late" Motions

Late motions continue to be problematic. Current practice is to allow late motions to be received up until 2 weeks prior to the Conference, after which time they are collated and categorised, and then published in the *Local Government Weekly* the week prior to the Conference.

The primary issue with late motions is that the majority are late in the sense they were received after the deadline for the production of the business paper, they are not late in the sense that they deal with issues which are both urgent and emergent (that is, having only become more recently).

Clause 24(b) of the rules states in part; "...*the Executive Committee may allow the matter to be considered by the Conference as a late item*".

Following the 2011 Conference the LGA Executive has resolved that no late items will be accepted unless the matter is both **urgent** and **emergent**.

Delegate responsibilities

The LGA Conference Committee, the LGA Executive and the Conference Host Council arrange and manage the annual Conference for the benefit of member councils and their delegates.

The matter of achieving and holding a quorum is not the responsibility of the Association or the Host Council.

The Association is not, and cannot be put in, the position of acting as "policeman" to ensure nominated council delegates are in attendance for debating sessions. This is a matter for individual delegates and the member councils who nominated them.

Similarly, the Association places its trust in nominated delegates to not breach the rules in terms of usage of voting cards and electronic voting units. These are issued to individuals in accordance with the rules, and the Association trusts that delegates do not deliberately breach these rules.

2012 Conference and beyond

With a single Association likely to come into being before any scheduled 2013 Conference it is highly likely that 2012 will be the final LGA Conference in its current form.

The early closure of the 2011 Conference was harmful to the reputation of Local Government generally, and extremely disappointing to the LGA Executive, and to the vast majority of members and Conference attendees.

This cannot be allowed to happen again, and to that end the Association requires the assistance of every member and nominated member delegate.

I would ask you all to assist in the following ways:

- 1 Please provide a copy of this letter to all Councillors, and request they (and the Council) provide any feedback to the proposed way forward to the Association by the end of February 2012.
- 2 Consider that, before any motion is submitted to Conference to:
 - a) Ensure that the issue is not dealt with as part of existing Association policy (if you are unsure please contact the Association prior to submitting the motion).
 - b) Ensure the issue is of significance to all councils.
 - c) Ensure that the issue is within the competency of Local Government, or has major impact on the operations and responsibilities of Local Government.
 - d) Ensure that the motion addresses the issue at the highest sector wide level (that is, it should not contain any local content, except by way of perhaps an example within a note in support of the motion).
 - e) Ensure that late motions only deal with issues which are **both** urgent **and** emergent.
- 2 Prior to the Conference please advise your nominated delegates of your Council's expectations in relation to attendance at the Conference.

On behalf of the Association I thank you for your attention to this letter and believe that together we can ensure that future Conferences provide outstanding results and benefits to our member councils and their delegates.

Once again may I take this opportunity to wish you all a happy and safe Christmas.

Yours sincerely,


Cr Keith Rhoades AFSM
President

GM12/23 SEPTEMBER 2012 LOCAL GOVERNMENT ELECTIONS – CARETAKER PROVISIONS

Purpose:

To advise Councillors with the upcoming local government elections in September 2012 of the new caretaker provisions pursuant to the Local Government Act 1993 and the Local Government (General) Regulation 2005.

Description of Item:

On 22 June 2012 amendments were made to the Local Government (General) Regulation to mandate what were formerly caretaker conventions.

Clause 393B of the Regulations now require that the Council, the General Manager or any other delegate of the Council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the four weeks preceding an ordinary election (caretaker period):

- Entering into any contract or undertaking involving an expenditure or receipt by the Council of an amount equal to or greater than \$150,000 or 1% of the Council's revenue from rates in the preceding financial year (whichever is the larger).
- Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period. The term "controversial development application" is defined as one for which at least 25 persons have made submission by way of objection.
- Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager).

In particular cases these functions may be exercised with the approval of the Minister.

Consultation:

No consultation has occurred. The intent of the attached Division of Local Government Circular No. 12-19 is to ensure Councillors and senior staff members are made aware of the new caretaker provisions pursuant to the Local Government Act 1993 and the Local Government (General) Regulation 2005.

Related Policy and / or Precedents:

Nil.

Statutory Requirements:

There are various statutory requirements provided within the Local Government Act 1993 and these requirements have been summarised in the body of this report.

Cont'd

Issues:

Like Commonwealth and State Government, local councils are expected to assume a caretaker role during the election period to ensure that major decisions are not made which would limit the actions of an incoming council.

Implementation Date / Priority:

The caretaker period for the September 2012 ordinary local government elections commences on Friday 10 August 2012 and ends on Saturday 8 September 2012.

Recommendation:

That Councillors note the attached Division of Local Government Circular No. 12-19 regarding the September 2012 Local Government Elections – Caretaker Provisions.



**Steve McGrath
General Manager**

Attachments:



Premier & Cabinet
Division of Local Government

Circular to Council

Circular No. 12-19
Date 25 June 2012
Doc ID. A285099

Contact Governance Team
02 4428 4100

SEPTEMBER 2012 LOCAL GOVERNMENT ELECTIONS – CARETAKER PROVISIONS

Purpose

With the upcoming local government elections in September 2012 this circular provides a summary of the new caretaker provisions pursuant to the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

Issue

- Like Commonwealth and State Government, local councils are expected to assume a caretaker role during the election period to ensure that major decisions are not made which would limit the actions of an incoming council.
- On 22 June 2012 amendments were made to the *Local Government (General) Regulation* to mandate what were formally caretaker conventions.
- Clause 393B requires that the council, the General Manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the four weeks preceding an ordinary election (caretaker period):
 - Entering into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger).
 - Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period. The term "controversial development application" is defined as one for which at least 25 persons have made submissions by way of objection.
 - Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager).
- In particular cases these functions may be exercised with the approval of the Minister.

Division of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E dlg@dlg.nsw.gov.au W www.dlg.nsw.gov.au ABN 99 567 863 195

- The caretaker period for the September 2012 ordinary local government elections commences on Friday 10 August 2012 and ends on Saturday 8 September 2012.

Action

- General Managers are asked to bring this circular to the attention of all councillors and senior staff.

A handwritten signature in black ink, appearing to read 'Ross Woodward'. The signature is written in a cursive, flowing style.

Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORTS

L12/20 DEVELOPMENT APPLICATION 142/12 – SUBDIVISION (2 LOTS) – LOT 31 DP 631126, 96 BRUXNER PARK ROAD, KORORA

Purpose:

This report describes Development Application 142/12 for a 2 lot subdivision.

The site of the proposed development is Lot 31, DP 631126, 96 Bruxner Park Road, Korora. Conditional approval of the application is recommended. The following map details the existing lot configuration.



Lot 31 DP 631126
96 Bruxner Park Road
This map produced by GIS Specialist
Coffs Harbour City Council
User: amdamanda
Date: 28/06/2012

0 25 50 100 150
Disclaimer: All geographic information supplied by DRRW is for general information only and does not constitute a warranty of accuracy. The user of this information is advised to verify the accuracy of the information for their own purposes. The user of this information is advised to verify the accuracy of the information for their own purposes. The user of this information is advised to verify the accuracy of the information for their own purposes.



Cont'd

Description of Item:

The subject lot is located on Bruxner Park Road, Korora. It also has frontage to Sealy Lookout Drive. The lot contains an existing dwelling house and ancillary structures. The land adjoins lots primarily used for rural living or agricultural purposes.

The site is 2.45ha in area and comprises land zoned 1B Rural Living and 7A Environmental Protection. The proposal is to subdivide the land into two lots for rural residential purposes. Proposed lot 310 will be 1.18ha and proposed lot 311 will be 1.27ha. Both proposed lots will be zoned 1B Rural Living and 7A Environmental Protection. Proposed lot 310 will be accessed from Sealy Lookout Drive and proposed Lot 311 will be accessed from Bruxner Park Drive.

As the size of proposed lots 310 and 311 is under the minimum lot size of 2 hectares as specified in the Coffs Harbour City Council LEP Clause 18(4)(b), a variation to this development standard is required.

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

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 contains land zoned 7A Environmental Protection. A vegetation management plan has been submitted with the development application. The proposal involves restoring the vegetation within the 7A zone. The proposed building envelope for proposed lot 311 is located outside of the area zoned 7A. The site will be improved environmentally. No tree removal is proposed. The proposed development is unlikely to have a significant effect on threatened species, populations or ecological communities or their habitats.

The proposal is supported by Council's Biodiversity section. 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.

Cont'd

- **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 notified to nearby and adjoining landowners. No submissions were received in relation to the application. It is considered that the proposed development is unlikely to result in any adverse impacts in the locality.

The application has been reviewed by the NSW Rural Fire Service and a conditional Bushfire Safety Authority has been issued.

The application has been reviewed by the NSW Department of Planning & Infrastructure who has issued their concurrence to vary the minimum 2 hectare lot size development standard in this instance.

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:

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

In November 2008 the then 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(4)(b) of LEP 2000 provides that Council may grant consent to the subdivision of land that comprises land zoned 1B and 7A only if each proposed allotment contains an adequate building envelope outside of the land zoned 7A, the subdivision is desirable for long term management of the land zoned 7A and each allotment has an area greater than the minimum area specified in Korora Rural Residential Development Control Plan. The minimum area in this case being 2 hectares.

As the proposal will result in lots that do not meet the required standard (2ha) 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.

Cont'd

**L12/20 Development Application 142/12 – Subdivision (2 Lots) – Lot 31 DP 631126, 96
Bruxner Park Road, Korora ...(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.

• **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 No. 55 – Remediation of Land;
- Coffs Harbour City Local Environmental Plan 2000;
- Korora Rural Residential Development Control Plan.

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

Issues:

This application proposes a variation to a development standard. The proposal meets the objectives of the 1B zone and 7A zone in terms of compatibility, environmental hazards, servicing and habitat values. The proposed lots are compatible with the character and amenity of the rural living environment. The variation to the development standard is considered to be well founded. The Department of Planning and Infrastructure has issued concurrence to the development standard variation request.

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 objections under SEPP No. 1 - Development Standards for the variation to the minimum allotment size under Clause 18(4)(b) of Coffs Harbour Local Environmental Plan 2000 be supported in this particular case.
2. That Development Application 142/12 for subdivision at Lot 31, DP 631126, No. 96 Bruxner Park Road be approved subject to conditions appended to this report (Appendix C).

**Section 79C Evaluation
Development Application 142/12**

a. the provisions of,

i. any environmental planning instrument, and

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

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

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

State Environmental Planning Policy No.1 (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(4)(b) of LEP 2000 provides that Council may grant consent to the subdivision of land that comprises land zoned 1B and 7A only if each proposed allotment contains an adequate building envelope outside of the land zoned 7A, the subdivision is desirable for long term management of the land zoned 7A and each allotment has an area greater than the minimum area specified in Korora Rural Residential Development Control Plan. The minimum area in this case being 2 hectares. The applicant has submitted an objection to Clause 18(4)(b) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to SEPP No.1.

In support of the proposal, the applicant contends that in this case it is unnecessary and unreasonable to comply strictly with the 2ha limit. The nature of the land, the subdivision layout, the location of other dwellings, wastewater disposal fields and access to both lots makes it possible for a two lot subdivision of the land to be compatible with the rural living character of the locality without having an adverse impact on the environment. The application demonstrates that the proposal can comply with all the relevant planning requirements apart from the minimum lot size requirement of 2ha which is unreasonable in this instance.

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

As per the concurrence arrangements issued by the Department of Planning (under Circular No.B1) the subject application was referred to the Department of Planning and Infrastructure seeking concurrence to vary the standard contained in Clause 18(4)(b) of the Coffs Harbour Local Environmental Plan 2000. The Department has issued their concurrence in this instance.

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

The subject site is mapped as potentially contaminated under Council's Agricultural Chemical Residues Policy. There is a history of banana farming for the site in question and surrounding properties. The building envelope on proposed lot 311 is located on a section of the site that is potentially contaminated. A preliminary soil assessment was submitted with the development application. The report concluded that the assessment found that the concentrations of the primary contaminants associated with the previous use as a banana plantation were less than the acceptable threshold levels for residential development. The proposed building envelope on proposed lot 311 is therefore considered suitable for rural residential purposes and remediation of the site is not required.

The proposal was referred to Council's Environmental Health section for comment in relation to the preliminary soil assessment. No issues were raised. The land is considered to be suitable in its current state to be used for rural residential purposes in accordance with section 7(1)(b) of the SEPP.

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

In November 2008 the then 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(4)(b) of LEP 2000 provides that Council may grant consent to the subdivision of land that comprises land zoned 1B and 7A only if each proposed allotment contains an adequate building envelope outside of the land zoned 7A, the subdivision is desirable for long term management of the land zoned 7A and each allotment has an area greater than the minimum area specified in Korora Rural Residential Development Control Plan. The minimum area in this case being 2 hectares.

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

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.

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

The Mid North Coast Regional Strategy provides regional parameters for future strategic planning and complements and informs other relevant State planning instruments. The proposed subdivision is consistent with the objectives of the Strategy.

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

Zoning

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

Clause 18(4)(b) of the LEP specifies that:

- (b) if land in Zone 7A adjoins land in Zone 1B, 2A, 2B, 2C, 2D or 2E, consent may be granted to a subdivision of the composite parcel provided:
- (i) each resultant allotment contains an adequate (in the opinion of the consent authority) building envelope outside the land in Zone 7A, and
 - (ii) the consent authority considers that the subdivision is desirable for achieving long term management of the land within Zone 7A, and
 - (iii) if the composite parcel contains land in Zone 1B and 7A, each resultant allotment has an area of at least the greater of the following:
 - (A) the minimum area specified in *Korora Rural Residential Development Control Plan* as in force on the commencement of *Coffs Harbour City Local Environmental Plan 2000 (Amendment No 28)*,
 - (B) one hectare.

Proposed lot 310 already contains a dwelling-house and is located outside of the land zoned 7A. Proposed lot 311 contains a building envelope outside of the area zoned 7A. It is considered the long-term management of the 7A zoned land will be assisted by the proposed boundary adjustment. The habitat values of the 7A zone within the site will be protected via the implementation of a vegetation management plan. The applicant has submitted an objection to Clause 18(4)(b) of the Coffs Harbour Local Environmental Plan 2000 (LEP), pursuant to SEPP No.1 to request a variation to the minimum lot size in this instance. The previous section titled 'State Environmental Planning Policy No. 1 - Development Standards' addresses the matters regarding the SEPP 1 objection.

Clause 23 – Environmental Hazards

The site is identified as bushfire prone. The proposed development, therefore, constitutes 'integrated development' and was referred to the NSW Rural Fire Service (RFS) for general terms of approval. The RFS has issued a conditional Bushfire Safety Authority for the development.

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)

- **Korora Rural Residential Development Control Plan**

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

A variation to the development standard (2 hectare minimum lot size) is being sought by the applicant in accordance with State Environmental Planning Policy No. 1 (see section on State Environmental Planning Policy No. 1).

An On-Site Wastewater Treatment Assessment was submitted with the development application. It includes an assessment regarding the suitability of the site for on-site effluent disposal. The report concludes that proposed lot 311 is capable of having an effluent disposal system in accordance with the DCP and Council's On-Site Sewage Management Strategy. The proposal was referred to Council's Environmental Health section for comment in relation to the On-Site Wastewater Treatment Assessment. No issues were raised. Proposed lot 310 already contains a functioning effluent disposal system which is approved and inspected by Council.

Access to each lot will be required to be upgraded in accordance with the DCP. A condition will be imposed in the development consent requiring the vehicular accesses to be upgraded in accordance with the Korora Rural Residential DCP prior to the issue of the subdivision certificate.

The subject site is mapped as potentially contaminated under Council's Agricultural Chemical Residues Policy. There is a history of banana farming for the site in question and surrounding properties. A preliminary soil assessment was submitted with the development application in accordance with the DCP. The report concluded that the assessment found that the concentrations of the primary contaminants associated with the previous use as a banana plantation were less than the acceptable threshold levels for residential development. The proposed building envelope on proposed lot 311 is therefore considered suitable for rural residential purposes and remediation of the site is not required.

The proposal was referred to Council's Environmental Health section for comment in relation to the preliminary soil assessment. No issues were raised. The land is considered to be suitable in its current state to be used for rural residential purposes in accordance with the DCP and section 7(1)(b) of State Environmental Planning Policy No. 55.

A vegetation management plan has been submitted with the development application in accordance with the DCP. The proposal involves restoring the vegetation within the 7A zone. The proposed building envelope are located outside of the areas zoned 7A. The proposal was referred to Council's Biodiversity section for comment. The revegetation works will be required to be completed as a condition in the development consent prior to the issue of the subdivision certificate.

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

Both proposed lots 310 and 311 contain areas of land zoned Environmental Protection 7A Habitat and Catchment Zone. A vegetation management plan has been submitted with the development application in accordance with the DCP. The proposal involves restoring the vegetation within the 7A zone. The proposed building envelope is located outside of the areas zoned 7A. The proposal was referred to Council's Biodiversity section for comment. The revegetation works will be required to be completed as a condition in the development consent prior to the issue of the subdivision certificate. No tree removal is proposed. Any

vegetation removal within this area would require Council approval in accordance with Council's Tree Preservation Order.

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,

The proposal demonstrates that each proposed lot is suitable/capable of having a dwelling-house in terms of effluent disposal, bushfire safety and access without having an adverse impact on the natural environment. The site is considered suitable to be used for rural residential purposes.

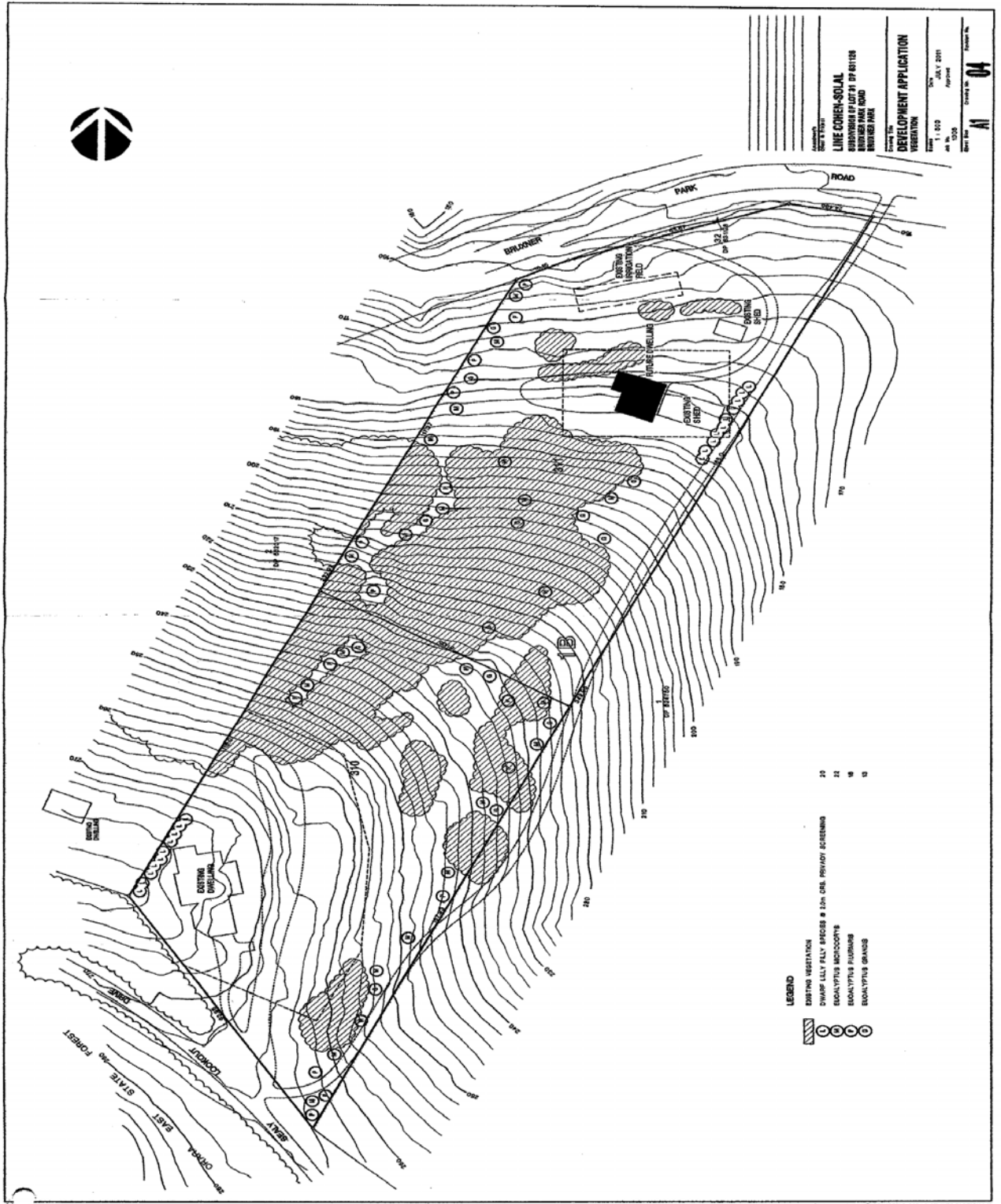
d. any submissions made in accordance with this Act or the regulations,

The application was reviewed by the NSW Rural Fire Service (RFS). The RFS has issued a conditional Bushfire Safety Authority. Concurrence was sought from the NSW Department of Planning and Infrastructure as the proposal involves seeking a variation to a development standard under State Environmental Planning Policy No. 1. The NSW Department of Planning and Infrastructure has provided concurrence.

e. the public interest:

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

Proposed Subdivision Configuration
Development Application 142/12



Proposed Conditions of Development Consent

ADMINISTRATIVE CONDITIONS

Development Description:

1. Development consent is granted only to carrying out the development described in detail below:
 - *Subdivision (2 lots)*

Prescribed Conditions:

2. 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:

3. 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. 142/12).

Plan No. / Supporting Document(s)	Dated
Job No. 1006, Drawing No. 04.	July 2011

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Development in Accordance with Documents:

4. The development shall be undertaken in accordance with the following documents:

Planning Documentation

- (1) Development Application Justification Report, prepared by Robert L. Tanner & Line E. Cohen-Solal, dated July 2011.

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

Construction Certificate:

5. No subdivision work is to commence on site until a Construction Certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed.

Vegetation Management Plan:

6. **Prior to issue of the Construction Certificate**, and prior to commencement of any works on the site, a detailed Vegetation Management Plan (VMP) in accordance with Council's Biodiversity Guidelines No 1a '*Preparing Vegetation Management Plans*' being submitted and approved by Council.

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

In addition to the requirements of Council's Biodiversity Guidelines No. 1a '*Preparing Vegetation Management Plans*', the VMP must:

- (i) Include initial works to be undertaken prior to issue of subdivision certificate such as details of weed management (amount, location, methods, management, timing, etc).
- (ii) Cost schedule of the works to be undertaken.

Access and Services:

7. The following works:

- Driveway works to both lots 310 and 311;

shall be provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications and Korora Rural Residential Development Control Plan.

Plans and specifications are to be submitted to Council and approved **prior to issue of the Construction Certificate**. Plan submissions are to be accompanied by payment of prescribed fee.

Plans and specifications submitted later than six (6) months from the date of development consent shall comply with Council's current specifications at a date six (6) months prior to submission.

All work is to be at the developer's cost.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

Restriction on Title:

8. A restriction on title under Section 88B of the Conveyancing Act 1919, being registered on the title of Proposed Lot 311, to the effect that the dwelling envelope for proposed Lots 311 being restricted to that nominated on Job No. 1006, Drawing No. 04, dated July 2011, except where required to be varied as required by condition 14 of this development consent.

Section 94 Monetary Contributions:

9. 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	363.84
- Coffs Harbour Road Network	1,994.36
- Surf Rescue Equipment	102.01
- Transport & Traffic	17,138.08
- Urban Planning	1,099.07
- Bush Fire Protection	401.28

The Section 94 contribution is currently \$21,098.64 for the additional lot 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.
- Korora Rural Residential Release Area 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.

Vegetation Management Plan:

10. The works (other than maintenance works) prescribed in the approved Vegetation Management Plan (VMP) being completed **prior to issue of the Subdivision Certificate**. A report from the consultant who prepared the VMP or other suitably qualified consultant being submitted to the Principal Certifying Authority with the Subdivision Certificate application to the effect that the initial works have been completed in accordance with the approved VMP.

Vegetation Management – Positive Covenant Title:

11. The registered proprietor of the land must enter into positive covenants with Council to maintain the works as effected on each proposed lot in accordance with the Vegetation Management Plan as it affects that lot. The positive covenants shall be in, or to the effect of covenants approved by Council from time to time and be created pursuant to Section 88E of the Conveyancing Act 1919, generally in accordance with the attached draft covenant “A” and must be registered on the title to each lot. Registration must be effected in conjunction with the registration of the plan of subdivision.

Access and Services:

12. Driveway works required under condition 7 of this development consent being constructed in accordance with the approved plans and specifications and completed **prior to issue of the Subdivision Certificate.**

Services:

13. The Subdivision being provided with reticulated electricity and telecommunication cables. The applicant shall provide a letter from the relevant electricity energy provider stating that satisfactory arrangements have been made for the supply of electricity and a letter from Telstra stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision. These letters are to be provided to Council **prior to release of the Subdivision Certificate.**

Bushfire Safety:

14. A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be placed on proposed Lot 311 for the purpose of identifying a dwelling envelope. The dwelling envelope shall be located generally in accordance with the approved plan (Job No. 1006, Drawing No. 04, dated July 2011), except that the perimeter of the dwelling envelope shall not be less than:
 - 10m from the southeast boundary
 - 21m from the remnant native vegetation to the southwest
 - 10m from the northwest boundary
 - 52m from the northeast boundary.
15. At the issue of subdivision certificate and in perpetuity, the dwelling envelope and surrounding land on proposed lot 311 shall be maintained as an Inner Protection Area (IPA) as outlined within section 4.1.3 and appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Service’s document “Standards for Asset Protection Zones” for the following distances:
 - South-east to the boundary
 - Southwest for 21m
 - North-west to the boundary
 - North and Northeast for 52m or to the boundary.

16. Where modification to the electricity supply work is required to be undertaken to service the proposed subdivision, required to be undertaken due to the proposed subdivision, are to comply with Section 4.1.3 of "Planning for Bushfire Protection 2006".
17. Any gas supply to the existing dwelling shall comply with the following requirements:
 - a) Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
18. Property access roads constructed as part of this subdivision shall comply with section 4.1.3(2) of "Planning for Bushfire Protection 2006", except that a reversing bay may be provided in lieu of a loop road around the dwelling or a turning circle. Where a reversing bay is provided it shall be not less than 6 metres wide and 8 metres deep with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres.
19. Bushfire safety upgrading are to be completed **prior to the issue of the Subdivision Certificate** and are to be certified as to their satisfactory completion by the bushfire planning consultant with such verification being provided to Council **prior to the issue of the Subdivision Certificate**.

**L12/21 DEVELOPMENT ASSESSMENT REPORT FOR DEVELOPMENT APPLICATION
259/12 – GROUP HOME – LOT 13 DP 1161416, NO. 215 RANDALLS ROAD,
BUCCA FOR DETERMINATION BY THE JOINT REGIONAL PLANNING PANEL
(NORTHERN REGION)**

Purpose:

To advise Councillors that a development assessment report for Development Application 259/12 (Group Home at 215 Randalls Road, Bucca) has been lodged with the Joint Regional Planning Panel (Northern Region). A copy of the development assessment report that has been provided to the Panel is appended to this report. It is recommended that the content of this report be noted.

Description of Item:

- **Proposed Development**

Development Application (DA) 259/12 is an application for a Group Home providing temporary accommodation for persons participating in drug and alcohol rehabilitation programs of the group home operator. The property is 215 Randalls Road, Bucca, (Lot 13 DP 1161416) located approximately two kilometres north of the intersection of Bucca Road and Randalls Road and approximately 15 km from Moonee Beach village. The property has an area of 95.41 hectares.

The application has gone through two periods of community consultation. Ten submissions were received during the initial community consultation period. Fifty-three submissions were received during the second community consultation period.

The development assessment report provides a complete evaluation of the proposal including the site attributes, the community consultation, and the statutory requirements and provides a recommendation as required by the reporting and development assessment processes specified for Joint Regional Planning Panel applications.

- **Joint Regional Planning Panel Determination**

This application will be determined by the Joint Regional Planning Panel (Northern Region) and not Council. This is specified by requirements of *State Environmental Planning Policy (State and Regional Development) 2011* and the parameters of Schedule 4A of the *Environmental Planning and Assessment Act 1979* – (Private Infrastructure and Community Facilities (Group Homes) with a capital investment value of more than \$5 million).

- **Process for Development Applications Determined by the Joint Regional Planning Panel**

Development applications which are determined by the Joint Regional Planning Panel are lodged with Council in the normal manner. Staff assess these applications following the normal process and as required by the Environmental Planning and Assessment Act and Regulations.

Staff then provide a development assessment report to the Panel for determination.

- **Assessment Report**

The Assessment Report is provided to the Panel Secretariat. The report is placed on Council's website (via a link) and the Regional Panel website prior to the Regional Panel meeting. A copy of the Assessment Report is appended to this report.

Cont'd

**L12/21 Development Assessment Report For Development Application 259/12 – Group Home
– Lot 13 Dp 1161416, No. 215 Randalls Road, Bucca For Determination By The Joint
Regional Planning Panel (Northern Region) ...(Cont'd)**

- **The Role of Councillors**

A number of operational procedures and fact sheets have been developed by the Joint Regional Planning Panel. The following information is relevant to Councillors role in applications determined by the Panel.

"The elected council has no role in approving, authorising or endorsing the assessment report."

"The elected Council has the opportunity to provide a submission to the Regional Panel on matters being determined in its area. Councillors (except any councillors that have been appointed to the Regional Panel) as members of the council, can determine to provide a submission to the Regional Panel about the matter to be determined. The Council is able to be represented at the Regional Panel meeting to address the meeting about its submission."

Recommendation:

That the content of this report be noted



**Jeff Green
Acting Director
Land Use, Health & Development**

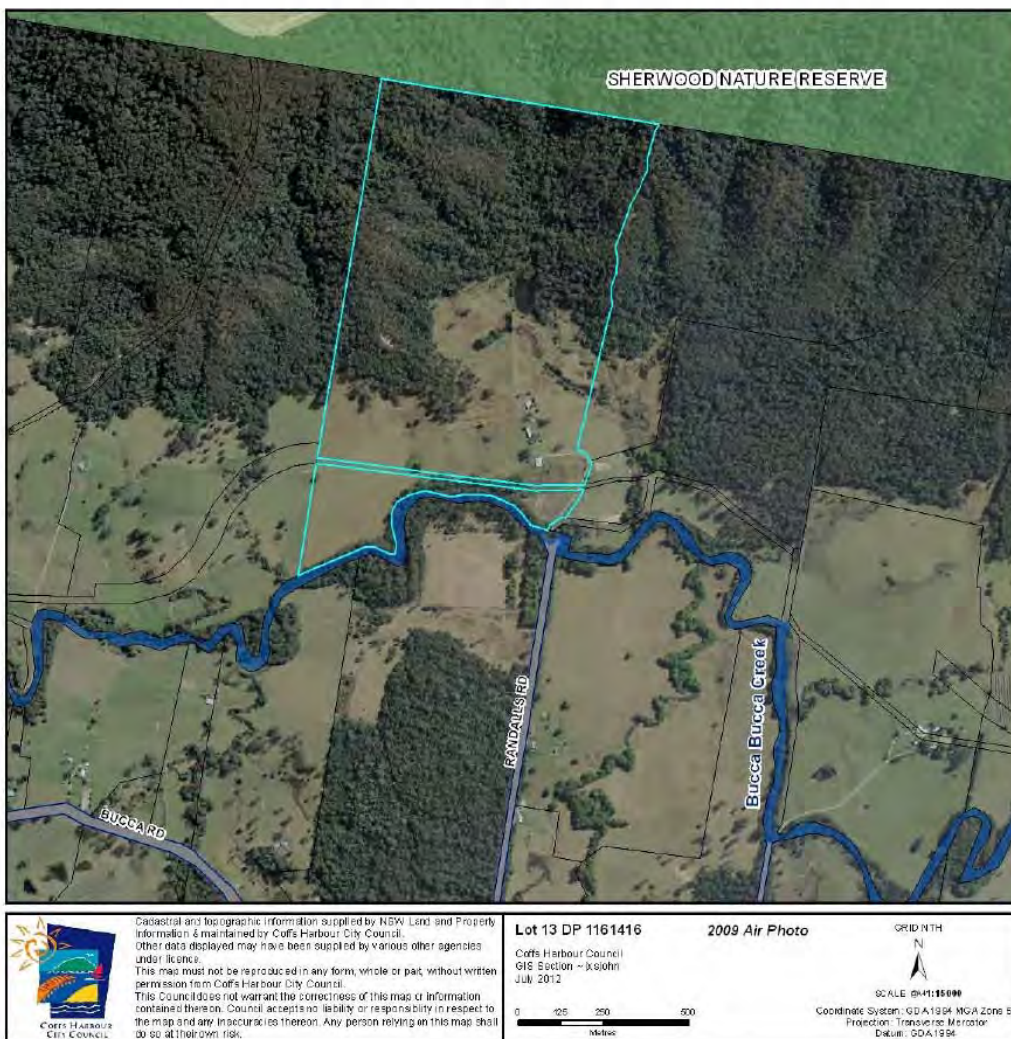
**DEVELOPMENT APPLICATION 259/12 – Group Home – LOT 13, DP 1161416,
215 Randalls Road, Bucca**

Purpose of this Report:

This report provides an assessment of Development Application 259/12 for a group home at 215 Randalls Road, Bucca.

As the proposed development is for private infrastructure (group home) with a capital investment value of more than \$5 million, determination of the application is to be made by the NSW Joint Regional Planning Panel. A quantity surveyor's report has been provided which demonstrates a capital investment value of more than \$5 million for the proposed development.

Aerial Photograph of Lot 13, DP 1161416 at 1:15000 scale



Aerial Photograph of Lot 13, DP 1161416 at 1:25000 scale

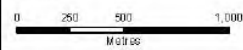


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Lot 13 DP 1161416

2009 Air Photo

Coffs Harbour Council
 GIS Section - k.sjothn
 July 2012



GRID NTH



SCALE 1:25000

Coordinate System: GDA1994 MGA Zone 58
 Projection: Transverse Mercator
 Datum: GDA1994

The Site and Locality

The site is 215 Randalls Road, Bucca (Lot 13, DP 1161416). It is located approximately 1.8 kilometres north of the intersection of Bucca Road and Randalls Road and approximately fifteen kilometres west of Moonee Beach. The site is one land parcel with an area of 95.41 hectares.

The site is bound by Bucca Bucca Creek to the south, Sherwood Nature Reserve to the north, one rural allotment to the west and two rural allotments to the east. The south east corner of the site has frontage to Randalls Road. Approximately half of the site is vegetated with the remaining half of the site being cleared land. The site falls from the highest points of the site (that adjoin Sherwood Nature Reserve to the north) to the south where it adjoins Bucca Bucca Creek. There are a number of dams on the property. The property includes an existing dwelling house and existing sheds.

Access to the site is from Randalls Road. The first 50 metres of Randalls Road has a six metre wide sealed surface; the rest is unsealed with a 3.5 metre wide carriageway. Approximately 1.8 kilometres from the intersection with Bucca Road, Randalls Road crosses Bucca Bucca Creek at a timber bridge.

The locality consists of properties similar in topography with similar amounts of existing native vegetation. Dwellings in the area tend to be located near Bucca Road although a number of larger properties have dwellings that are located away from Bucca Road. There are approximately eighteen separate land parcels within one kilometre of the development site.

The Proposal

The proposed development is described as a transitional group home and ancillary dwellings and facilities. The development will be used for residential rehabilitation programs for men recovering from drug and alcohol problems. It will provide short term accommodation for persons participating in registered programs of the group home operator for periods of between three to six months. Descriptions of the operation state the following.

"The aim is to create a rehabilitation environment that is detached from the clients' former environment which also provides an opportunity to attain better social, living and essential work skills. As part of this aim, the property will be managed as an agricultural holding by those persons in the recovery process."

The operation will have twelve full time equivalent staff in attendance. The development consists of a number of separate building precincts described as a;

- Group Home Precinct
- Staff Accommodation Precinct
- Chapel Precinct

The Group Home Precinct consists of the following;

- Accommodation building of two storeys with twenty bedrooms (ten bedrooms per floor), separate communal lounge areas and laundries. Each bedroom contains two beds, wardrobes, a bathroom and facilities. The accommodation building is approximately 900 m² in area.
- Administration building of two storeys containing computer room, group meeting room, three interview rooms, lounge, smaller meeting room, store, laundry and toilet facilities at lower ground level with dining room, lounge, conference room, kitchen, reception, offices and administration area. The administration building is approximately 1270 m² in area.

- An exercise pavilion of two storeys including gymnasium type facilities, including weights and program rooms, pools and shower and change rooms. The exercise pavilion is approximately 625 m² in area.
- Covered communal gathering area, nine car parking spaces, loading/unloading area.
- Existing single storey dwelling house to be utilised for visitor accommodation and administration of the farm operation.

The Staff Accommodation Precinct consists of two single storey dwelling houses each with two bedrooms, kitchen, lounge, dining, bathroom, laundry and study and single vehicle carport. Each dwelling is approximately 135 m² in area. They are approximately 500 metres from the group home precinct and are proposed for the use of the staff of the group home and their families.

The Chapel Precinct consists of a non-denominational chapel building with seating for up to 50 people. It is part single storey and part two storey. It is located approximately 450 metres from the group home building.

The development application originally proposed a Recreation Precinct but this component of the development has been withdrawn as it was located over a crown road and could not be considered without the consent of the crown.

Consultation:

The application has been through two periods of community consultation. For the community consultation period from 20 January 2012 to 2 February 2012, ten submissions were received. For the community consultation period from 29 March 2012 to 20 April 2012, fifty-three submissions were received.

The application was referred to the NSW Rural Fire Service as an integrated development referral requesting general terms of approval. The Service has provided general terms of approval subject to a number of conditions. The application was also referred to the NSW Department of Primary Industries - Office of Water and the NSW Police Service.

The content of government department responses is considered in the Section 79C evaluation as appended to this report. These government departments have not raised any objections to the proposed development.

During the assessment period of the application Council obtained legal advice on the permissibility of the proposed development. The advice was that the development as proposed was not permissible. Council then wrote to the applicant advising that the proposed development is not considered permissible and requested the applicant's intentions with respect to the development application. The applicant responded with two separate "legal opinions" that the development as proposed is permissible. These advices were provided to Council's legal advisor. The response was that their assessment on permissibility of the development was not changed by the legal advices of the applicant. This issue of permissibility is addressed in detail in the Issues section of this report.

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:**

The following environmental planning instruments are relevant to assessment of this application.

- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Building Sustainability Index: Basix) 2004*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *State Environmental Planning Policy - North Coast Regional Environmental Plan*
- *State Environmental Planning Policy (Rural Lands) 2008*
- *Mid North Coast Regional Strategy*
- *Coffs Harbour City Local Environmental Plan (LEP) 2000*

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

The following development control plans are also relevant for assessment of the application.

1. *Rural Lands Development Control Plan*
2. *Waste Management Development Control Plan*
3. *Access and Mobility Development Control Plan*
4. *Notification Development Control Plan*
5. *Off Street Car Parking Development Control Plan*
6. *Nana Glen-Bucca Development Control Plan*

A full assessment of each of these plans is considered in the Section 79C assessment appended to this report.

Issues:

The issues provided in this section of the report are a combination of matters which are considered to be core to statutory considerations in assessment of the application and also those concerns that have been raised a number of times in public submissions. It does not address all issues raised in submissions. A list of all matters raised in submissions is provided in a separate appendix to this report.

- **Permissibility**

Permissibility is a statutory matter. If a development is not permissible it cannot be approved. For assessment on permissibility, it is necessary to divide the components of the development proposal up because of the manner in which the development application has been made. The group home precinct of the development will be considered first followed by ancillary or incidental development.

Group Home Precinct

Both *Coffs Harbour Local Environmental Plan 2000* and *State Environmental Planning Policy (Affordable Rental Housing) 2009* contain provisions relating permissibility of the proposed development. In this case the provisions in the state environmental planning policy must be considered over the provisions contained in the local environmental plan because of the hierarchy of a state policy over a local environmental plan and because of provisions within the state policy itself. The state policy adopts the definitions contained within the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*.

The relevant definition is;

Group Home (Transitional) or Transitional Group Home means a dwelling:

- (a) *that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and*
- (b) *that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.*

To be permissible the proposed use and development must meet a permissible use for the zone. If not, it is a prohibited use and cannot be approved.

Examination of the proposed use and its permissibility is a process known as characterisation. It requires consideration of what is proposed in the development application as a matter of fact. It is then necessary to analyse those facts to determine the actual purpose and what is actually being carried out and to then determine the appropriate designation of that purpose.

The plans provided with the application show the group home precinct of the development to comprise two separate buildings; the 'accommodation building' and the 'administration building'. The accommodation building shows twenty separate 'twin bedrooms', each comprising two bedrooms, wardrobes, toilet and shower, plus common lounge and laundry facilities.

The administration building includes a kitchen / dining area, laundry facilities, and also computer rooms and meeting areas. The development application states that a full time staff member is required for provision of meals to the residents.

The definition requires that the development constitutes a dwelling (or single household). Single household is not defined but is referable to a dwelling. Dwelling is defined in *Coffs Harbour City Local Environmental Plan 2000* as;

'dwelling' means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile, whether or not used temporarily for display purposes.

The definition requires the rooms of the group home to be capable of being used as a separate domicile. This means they need their own kitchen/dining facilities; which the detached and separate accommodation building does not include. Cooking and dining can only occur in the separate 'administration building' where the kitchen and dining room is located. A full time staff member is to be used for provisions of meals to the residents.

It is considered that the proposed 'group home precinct' component does not constitute a dwelling as required by the group home definition under *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

The development is considered more appropriately characterised as a Boarding House which is a use defined under *Coffs Harbour City Local Environmental Plan 2000*. *State Environmental Planning Policy (Affordable Rental Housing) 2009* includes a definition for boarding house but this policy has no affect on the permissibility of a boarding house for this site.

'Boarding House' means a building or place:

- (a) at which accommodation, meals and laundry facilities are provided to the residents of the building or place, and
- (b) which is not licensed to sell liquor within the meaning of the *Liquor Act 1982*, and
- (c) which is not a motel, but does not include a bed and breakfast establishment.

In the context of the development application plans and the description of the use in the application, the layout and use of the 'group home precinct' are such that accommodation is provided, meals are provided, and communal laundry facilities are provided, as required by the boarding house definition (Part (a)). Parts (b) and (c) of the definition are not relevant. There is no requirement under the boarding house definition for the "building or place" to form or constitute a dwelling. It is considered that the proposed development meets this definition of boarding house.

Under *Coffs Harbour City Local Environmental Plan 2000*, boarding houses are prohibited in the Rural 1A Agriculture Zone.

Ancillary and Incidental Uses

The application is made on the basis that the accommodation parts of the development (within the main group home precinct building) are the dominant use, and that all other components of the development are permissible as ancillary or incidental components to this main use.

This means that, for this development, the following components are argued to be ancillary or incidental;

- The two separate staff accommodation dwellings
- The administration wing
- The existing dwelling to be retained as visitor accommodation.
- The chapel building
- The exercise pavilion

The concept of ancillary or incidental development is a legitimate permissibility argument but whether or not a particular part of a development is ancillary (or not) is a question of scale and degree.

Where a part of the premises is used for a purpose which is subordinate to the purpose which inspires the use of another part, it is legitimate to disregard the former and to treat the dominant purpose as that for which the whole is being used.

The consideration of ancillary parts of a development is particularly important where, under a normal assessment of permissibility, the 'ancillary components' would be a prohibited use.

The separate staff accommodation dwellings and existing dwelling to be retained would be prohibited as 'multi unit housing' (not permissible in the zone). The administration wing would be prohibited as an 'office premises' (not permissible in the zone). The chapel building could be permissible in the zone as a 'place of worship'. The exercise pavilion could be permissible as a 'recreation facility'.

If any of the proposed ancillary parts are not ancillary but are independent, then those parts should be considered separately as independent uses in their own right.

Separate staff accommodation dwellings

The staff accommodation dwellings will be erected some distance from the group home accommodation. These parts of the development are not considered subservient to, or dependent upon, the primary purpose but independent uses in their own right given their remoteness from the group home accommodation, their size and their scale.

Uses in the administration building

The two storey administration building comprises a substantial amount of administration floor space and includes three individual offices, a large open-form office, a meeting room, a waiting area, a tea room and a conference area. This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use its own right given the size and scale of this administration area. It is difficult to conceive that the administration areas proposed in this section of the building are directly required by the residential use but rather intended for an independent purpose.

Existing dwelling house to be retained as visitor accommodation

This part of the development is located a short distance from the group home accommodation. As it is existing it is limited in its size. An argument that this part is ancillary is stronger but this argument has not been successfully made.

Chapel

This building is substantial in size, is remote from the group home accommodation and will comprise a number of features, such as a court, furniture store, utility room, water feature and sacristy (vestment room). This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use its own right given its size, scale and remoteness.

Exercise pavilion and curtilage

This is a large building comprising a plunge pool, a lap pool, a weights room, a gym store, a steam room, communal change room, toilets, showers, communal gathering space and car parking. This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use its own right given the size and scale of this building.

Summary on Permissibility

The proposed development is not considered to constitute a transitional group home in that the residential component does not form or constitute a dwelling as required by the definition of 'transitional group home' (as defined under the Standard Instrument - Principal Local Environmental Plan). Notwithstanding this, even if the main use can be appropriately characterised as a group home, it is not considered that the other components of the development proposal are ancillary or incidental to the primary, 'dominant' use. The proposed use is not permissible and, therefore, cannot be approved.

- **Isolation of the site by flooding**

Access to the site is via an existing bridge over Bucca Bucca Creek. This access will be inundated from time to time during flood events. Many submissions have expressed concern about the isolation that residents and staff of the proposed group home will be subject to during times of flood.

Flood events on Bucca Bucca Creek occur regularly. Council recently completed the Orara River - Bucca Bucca Creek Flood Study that indicates the access road and bridge to the property would be impassable in a 20% ARI (Average Recurrence Interval or 5 year) flood event. Periods of isolation could be for two days or possibly longer depending on the rainfall and flood event. From the recently completed flood study the estimated 1% ARI (100 year) flood level is 80.5m AHD for the site in the vicinity of the access road and existing buildings. All proposed buildings will be located well above areas of flood inundation so residents and staff will not be subject to any immediate danger during flood events. As a flood management strategy, there is opportunity for individuals to "wait out" any flood event. This would require the provision of sufficient supplies for maximum flood events to be kept at the development site. These measures should form part of a Flood Management Strategy.

Flooding should be further addressed by planning and operational procedures to ensure safe and efficient operation. If the proposal was to proceed a detailed and comprehensive 'Flood Management Plan' for the development would be required in accordance with the SES Floodsafe toolkit for business. Flooding does not make the site unsuitable for the proposed development.

- **Traffic impacts to road users in the area**

A number of submissions have raised concern about the safety of road users that utilise roads in the area of the proposed development. They have raised both impact on road users of Bucca Road and also users of Randalls Road. This requires consideration of existing capacity of roads in the area and the additional traffic that the proposed development will generate.

The proposed development has been estimated as generating an additional forty daily traffic movements which is similar to the traffic generation of four dwellings. Submissions made on the application have questioned these figures. The average daily traffic volume on Bucca Road (near the Old Bucca Road intersection April 2010) is 1770 vehicles per day. A forty vehicle per day increase in traffic volumes represents an increase of 2.3% which is likely to have a negligible impact on traffic movements along Bucca Road.

The intersection of Randalls Road and Bucca Road has been considered in terms of its traffic function, in particular the sight distance at the intersection. It is considered that there is sufficient sight distance for adequate function of the intersection.

- **Standard of access to the site**

The existing road surface of Randalls Road is mostly unsealed. It is not satisfactory in its current condition. The additional traffic generated by the proposed development warrants some upgrading.

The Randalls Road access to the site also includes a crossing of Bucca Bucca Creek. The documentation provided with the development application included an engineering assessment of the adequacy of the creek crossing. The existing bridge is considered acceptable for the proposed development in its current condition.

There is some possibility that the bridge and road surface will get damaged during construction. Dilapidation reports of the road and bridge should be provided both before construction and after construction to ensure that damage that occurs during construction is rectified by the developer.

- **Safety impacts to the area from additional crime and lack of security**

A social impact assessment has been submitted with the application. The assessment considers this issue.

It concludes that, while concerns about safety and security are real, they are generally not supported by evidence that these impacts will occur and that many of these concerns are based on perception. It makes reference to a number of operational practices proposed to address these concerns including installation of CCTV throughout the development, full time supervision of residents by staff, regular drug testing of residents, a caretaker to monitor all visitors and a selection criteria for residents.

- **Compatibility with the rural area**

The proposed development is a use that is not typical for a rural area and the buildings will be large compared to many typical rural dwellings and out buildings. Notwithstanding this, the majority of the property will remain undeveloped and in a form similar to that of a typical rural property. The site is large at 95.41 hectares and this means that there is significant separation between the development and surrounding dwellings of the area. The separation distances of the property from nearby dwellings also means that amenity and visual impacts will also be very limited. Given these characteristics of the site and the locality, it is considered that the proposed development is not unsuitable with the rural area and that it can co-exist with the rural area.

- **Crown land on the property**

The site includes a Crown road reserve. The Crown reserve is not constructed in any way; it is a paper road. Use of the Crown road for any part of this development cannot occur without the consent of the Crown. The recreation precinct of this development was located over the Crown reserve. This component of the development has now been withdrawn from the application. Some submissions have also raised that the existence of the Crown reserve is a security risk based on a statement that anyone has an entitlement to access this reserve. As the Crown reserve is located within the subject property, access to the Crown reserve would require any individual to cross over the subject land. It cannot, therefore, occur without trespass. Existence of the Crown reserve does not pose a security risk to the development.

- **Flora and fauna impacts**

A flora and fauna habitat assessment report was provided with the application. It identifies the key values and constraints of the site. It lists threatened species that were recorded on site or that have potential, or are likely, to occur on the site based on available habitat. It does not form an assessment of those matters under Section 5A of the *Environmental Planning and Assessment Act*. This is a required statutory assessment to determine the environmental impact of a proposed development under Section 79C of the *Environmental Planning and Assessment Act*.

As a result there is insufficient detail provided with the application to enable Council to determine whether or not there will be a significant impact on threatened species, communities and/or populations.

Impact on platypus has been raised in a submission. The submission states that they live in Bucca Bucca Creek. The platypus is not threatened fauna so does not need to be considered under an assessment of matters under Section 5A of the Environmental Planning and Assessment Act. Notwithstanding, all buildings of the proposed development are some distance from Bucca Bucca Creek. Impact on platypus is considered extremely unlikely.

With respect to flora and fauna impacts, the development application could not be approved without further assessment being provided.

- **Social impacts**

A social impact assessment has been submitted with the application.

The assessment concludes that there will be a positive impact on those who participate in the residential therapeutic programs. Submissions provided in support of the proposal (from the Mid North Coast Area Health Service and the Mid North Coast Local Health District) also provide some evidence of community need for the proposed development.

The social Impact statement also provides the following comments in conclusion:

“The negative impacts of this development have been identified by residents living in the surrounding area. From the submissions received it is evident that this development is believed to have a negative impact on the ‘sense of place’ that residents have to the area. Residents fear that this will be lost.

The sense of place is that of a rural area and residents ‘connection’ being due to their work on the land, or because of general lifestyle reasons. The rural characteristic is quiet, peaceful and safe and residents fear that this development is in conflict with these characteristics and therefore their sense of place will be lost. The factors that lead to this loss can be either real or perceived.

The issues raised by residents have been considered and addressed. The concerns regarding safety are not supported as there has been no evidence to suggest otherwise from the operation of Adele’s other programs. The concerns however are real for the residents and should not be discounted. Therefore, careful consideration has been provided in the application and any perceived impacts are clearly responded to in reply to public submissions. The Adele facility does not change the land use of the area. It is contained on one site and operates in a self sufficient manner. On that basis, the actual social impact on the broader community is minimal.”

- **Isolation of the site from Police services and other emergency services**

There is no evidence that the staff or residents of the proposed development will have a need to access police or other emergency services that is greater than any other members of the community.

In addition, the social impact assessment submitted with the application makes reference to a number of proposed operational practices related to on-site security. These include installation of CCTV throughout the development, full time supervision of residents by staff, a caretaker to monitor all visitors and a selection criteria of residents.

- **Impact on agriculture**

A very small portion of the site is mapped under the NSW Department of Planning's Mid North Coast Farmland Mapping Project. The area is only that part of the site that adjoins Bucca Bucca Creek.

Only areas of the site that will be physically occupied by buildings of the development will be prevented from use for ongoing agriculture. The use by its nature will not affect other parts of the site for agriculture. Similarly for other properties in the area the development is unlikely to have any affect.

- **Noise and amenity impacts**

The proposed development is unlikely to produce any noise impacts greater than those typical of a large dwelling or agricultural pursuits in the area.

The recreation precinct, which was a component of the development that residents of the area expressed concern about with respect to noise, has been withdrawn from the application. The proposed development is considered acceptable with respect to noise impacts.

Other amenity impacts are unlikely due to the large size of the property and the separation of the proposed development from nearby dwellings. Some impact from additional traffic on Randalls Road may occur but this would be mitigated to a degree by upgrading works to Randalls Road.

- **Visual amenity and lighting impacts**

While the development is significant in size and scale, the development site is approximately 1.8 kilometres from Bucca Road. The site is also 95.41 hectares in area and the separation between the proposed buildings and other dwellings in the area is significant. An assessment of sight lines from the proposed development to nearby dwellings has been provided with the application. Few dwellings will have a direct line of site to proposed buildings of the development. As a result it is considered unlikely that visual impact from the proposed development will be unacceptable.

Plans of anticipated light spill have been provided with the application. The group home building is generally oriented to the north where the site adjoins Sherwood Nature Reserve (and not adjoining properties). Building openings and windows are generally oriented in this direction and lighting will therefore 'spill' in this direction. Some lighting of roadways and parking areas is proposed with small bollards. Unacceptable impact, as a result of lighting to the development, is considered unlikely.

- **Success of rehabilitation programs**

Some submissions have provided opinion that the rehabilitation programs, proposed by the group home operator, provide little benefit to participants. This is a matter that is outside the assessment of a development application. The consent authority must confine itself to statutory matters required to be considered; generally those matters specified under Section 79C of the *Environmental Planning and Assessment Act*.

- **Integrated development assessment process**

Submissions made on the application have expressed a view that, as the development site contains a watercourse and the proposed chapel is within 40 metres of the watercourse, then the integrated development provisions of the *Environmental Planning and Assessment Act* should be followed.

Whether or not the integrated development assessment process is followed is a matter at the discretion of the applicant. It depends on whether the development application is submitted as integrated development. This application was submitted as integrated development for the purposes of the *Rural Fires Act*. It was not submitted as integrated development for the purposes of the *Water Management Act*. As a result the integrated development process was followed with the Rural Fire Service but not with the NSW Department of Primary Industries - Office of Water.

Notwithstanding, the application was referred to the NSW Department of Primary Industries - Office of Water for their comments on the application. They raised no objection to the proposed development as the watercourse is a 'low order' watercourse and does not run for many times of the year. No adverse environmental impact is anticipated for this component of the development.

- **Impact on Property Values**

A number of submissions state that approval of the proposal will decrease land and property values in the area and suggest that this is grounds for refusal of the application.

While decline in property values is often raised as an issue of concern with development proposals, the generally accepted assessment position is that property values should not be assessed in isolation of other potential impacts that may result from the development (such as amenity impacts). The determining authority is required to consider likely impact of a proposed development and not perceived impacts which may be a component in determining a property's value. Subsequently, the issue of property values should only be considered in conjunction with other issues of the proposal.

- **The Assessment Process**

A number of submissions have expressed a view that the correct assessment process has not been followed, that the application was not notified correctly, that insufficient documentation has been provided, that further government departments should be requested to provide comment and that a quantity surveyors assessment of capital investment value should have been provided. A consent authority's obligation, in the assessment of development applications, is specified in the *Environmental Planning and Assessment Act* and the *Environmental Planning and Assessment Regulation*.

There are no specific notification requirements for a development of this type under the Act or Regulations. There are notification requirements specified in Council's Notification Development Control Plan. The application was notified in accordance with the requirements of this plan. In response to community concern that there was insufficient public notification, the application was re-notified, an additional period for submissions was given and an additional copy of the application was provided for viewing at the Nana Glen General Store.

The documentation required to be submitted with a development application is specified in the Environmental Planning and Assessment Act and the Environmental Planning and Assessment Regulation. Some public submissions expressed a view that a social impact assessment is required to be submitted. While there is no statutory requirement for submission of a social impact assessment, one has been provided. The content of the assessment has been considered in the evaluation of the application. There is no statutory requirement for submission of a cultural heritage assessment. It is considered that there will be no adverse impact on cultural heritage.

In addition to the requests for comment on the application that has been made to NSW Rural Fire Service, NSW Police, NSW Department of Primary Industries - Office of Water, it is submitted that comment should be obtained from NSW Agriculture. There is no statutory requirement for consultation with this government department. All relevant documents that inform on the issue of impact on agriculture have been considered. The development is unlikely to result in an adverse impact on agriculture.

While there is no statutory requirement for a detailed assessment on capital investment value of a development to be submitted, a quantity surveyor's report has been provided. This report demonstrates a capital investment value for the development of more than \$5 million.

Recommendation:

1. **That Development Application 259/12 for a Group Home at 215 Randalls Road, Bucca, (Lot 13, DP 1161416) be refused on the following grounds.**
 - a. **The proposed development is a prohibited use in the 1A Rural Agriculture zone under *Coffs Harbour City Local Environmental Plan 2000*.**
 - b. **Insufficient detail has been provided to enable assessment of the matters under Section 5A of the *Environmental Planning and Assessment Act* and the proposed development may result in an unacceptable impact on the environment.**
2. **That people who made a submission on the application be advised of this decision.**

**Section 79C Evaluation
Development Application 259/12**

a. the provisions of,

i. any environmental planning instrument, and

- **State Environmental Planning Policy (Affordable Rental Housing) 2009**

4 Interpretation--general

(2) A word or expression used in this Policy (other than Schedule 1 or 2) has the same meaning as it has in the standard instrument (as in force immediately before the commencement of the Standard Instrument (Local Environmental Plans) Amendment Order 2011) unless it is otherwise defined in this Policy.

8 Relationship with other environmental planning instruments

If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

42 Definitions

In this Division:

"group home" means a permanent group home or a transitional group home.

"prescribed zone" means:

(a) any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (i) Zone R1 General Residential,*
- (ii) Zone R2 Low Density Residential,*
- (iii) Zone R3 Medium Density Residential,*
- (iv) Zone R4 High Density Residential,*
- (v) Zone B4 Mixed Use,*
- (vi) Zone SP1 Special Activities,*
- (vii) Zone SP2 Infrastructure, and*

(b) any other zone in which development for the purpose of dwellings, dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.

43 Development in prescribed zones

(1) Development for the purpose of a permanent group home or a transitional group home on land in a prescribed zone may be carried out:

- (a) without consent if the development does not result in more than 10 bedrooms being within one or more group homes on a site and the development is carried out by or on behalf of a public authority, or*
- (b) with consent in any other case.*

(2) *Division 1 of Part 2 of State Environmental Planning Policy (Infrastructure) 2007 applies in respect of development carried out by or on behalf of a public authority under subclause (1) and, in the application of that Division, any reference in that Division to that Policy is taken to be a reference to this clause.*

Comment

The combined effect of clause 4(2), 8, 42 and 43 of this state policy is to make group homes permissible regardless of any other provision within an environmental planning instrument. As it is a provision within a state environmental planning policy it also has the effect of overriding any provisions within any other environmental planning instrument if they currently make reference to group homes as this would constitute an inconsistency. Pursuant to clause 8 this policy will prevail to the extent of the inconsistency.

By the zoning of this site under the City of Coffs Harbour Local Environmental Plan 2000 a group home is permissible in the zone with consent. Regardless of this provision the appropriate environmental planning instrument to apply is this state policy to determine permissibility.

Pursuant to clause 4 the definition for Group Home is taken from the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*. *Group Home under this is defined as:*

Group Home (Transitional) or Transitional Group Home means a dwelling:

- (a) *that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and*
- (b) *that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people.*

To be permissible the proposed use and development must meet a permissible use for the zone. If not, it is a prohibited use and cannot be approved.

Examination of the proposed use and its permissibility is a process known as characterisation. It requires consideration of what is proposed through the development application as a matter of fact. It is then necessary to analyse those facts to determine the actual purpose and what is actually being carried out and then determine the appropriate designation of that purpose.

The plans provided with the application show the group home precinct of the development in two separate buildings; the 'accommodation building' and the 'administration building'. The accommodation building shows twenty separate 'twin bedrooms', each comprising two bedrooms, wardrobes, toilet and shower.

The administration building includes a kitchen / dining area, laundry facilities, and also computer rooms, meeting areas etc. Also relevant is a statement provided in the application to the effect that a full time staff member is required for provisions of meals to the residents.

The definition requires that the development form a dwelling (or single household). Single household is not defined but is referable to a dwelling. Dwelling is defined in the Local Environmental Plan as;

'dwelling' means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile, whether or not used temporarily for display purposes.

The definition requires the room or rooms to be capable of being used as a separate domicile. This means they need their own kitchens or dining facilities; which the accommodation building does not include. Cooking and dining can only occur in the separate 'administration building' where the dining room is also located. A full time staff member is to be used for provisions of meals to the residents.

It is considered that the proposed 'group home precinct' component does not constitute a dwelling as required by the definition under State Environmental Planning Policy (Affordable Rental Housing) 2009.

The development is considered more appropriately characterised as a Boarding House which is a use defined under *Coffs Harbour City Local Environmental Plan 2000*. *State Environmental Planning Policy (Affordable Rental Housing) 2009* includes a definition for boarding house but this policy has no affect on the permissibility of a boarding house for this site.

46 Determination of development applications

(1) *A consent authority must not:*

- (a) *refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or*
- (b) *impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.*

(2) *This clause applies to development for the purpose of a group home that is permissible with consent under this or any other environmental planning instrument.*

Comment

As has been demonstrated, the proposed development in its current format is not a permissible use for this site. This clause requires assessment of the community need for the group home before a refusal of consent can occur. The applicant has provided their view that there is a clear need for the development. This is further supported by the social impact assessment that was submitted with the application.

The application is also provided with support by staff of the NSW Department of Health which indicate the need for the group home. This assessment satisfies the requirements under this provision.

- ***State Environmental Planning Policy (Building Sustainability Index: Basix) 2004***

Under this state policy a basix certificate is required for all new development that is a basix affected development within the meaning of the *Environmental Planning and Assessment Regulation*. This means any building that is a dwelling or a number of dwellings but does not include a hotel or motel.

The main building component is considered not to be a dwelling so basix does not apply. Basix does apply to the other, separate staff accommodation buildings which are considered dwellings. A basix certificate has been submitted for these components of the proposal. The proposed development can meet the requirements of this state policy.

- ***State Environmental Planning Policy (State and Regional Development) 2011***

Pursuant to clause 20 and 21 of this state policy determination of development applications that is of a class or description included in *Schedule 4A of the Environmental Planning and Assessment Act* is made by a Joint Regional Planning Panel.

The proposed development fits the description under Schedule 4A of “*development that has a capital investment value of more than \$5 million for...a group home...*”.

A quantity surveyors report has been provided. This demonstrates that the capital investment value for the development is more than \$5 million.

- ***State Environmental Planning Policy No 55--Remediation Of Land***

Clause 7 of this state policy specifies that the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. There is no evidence of any potential contamination of the land. There are no further requirements of this state policy.

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

The North Coast Regional Environmental Plan is a deemed State Environmental Planning Policy. Not all provisions of the plan now apply as matters to be considered in assessment of a development application. The proposal is considered to be consistent with the aims and objectives of the Plan. There are no remaining provisions of the Plan that are of relevance to the development.

- ***State Environmental Planning Policy (Rural Lands) 2008***

Part 3 of this state policy contains provisions that must be considered for an application for subdivision of land or erection of a dwelling. As the proposed development is either a group home or a boarding house, these provisions do not apply.

Part 4 - *state significant agricultural land* - contains provisions relating to land that is declared state significant agricultural land. There is no land at this point in time that is considered state significant for the purposes of this policy.

There are no other matters of the policy that require consideration.

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

The Mid North Coast Regional Strategy provides regional parameters for future strategic planning and complements and informs other relevant State planning instruments. There are no specific controls that require consideration with respect to the proposed development.

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

Permissibility

The site is zoned Rural 1A Agriculture under *Coffs Harbour City Local Environmental Plan 2000*. The comment provided here is related to the comments on permissibility under *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Both the state policy and the local environmental plan contain provisions that relate to permissibility for a group home. Due to the hierarchy of a state policy over a local environmental plan, the state policy is the appropriate planning instrument to consider **for the permissibility of a group home**. For all other proposed uses the Local Environmental Plan must be considered.

The proposed development is not considered to constitute a transitional group home in that the residential component does not form or constitute a dwelling as required by the definition of 'transitional group home' as defined under the *Standard Instrument - Principal Local Environmental Plan*.

The development is considered appropriately characterised as a Boarding House which is a use defined under the Local Environmental Plan;

'Boarding House' means a building or place:

- (a) at which accommodation, meals and laundry facilities are provided to the residents of the building or place, and
- (b) which is not licensed to sell liquor within the meaning of the *Liquor Act 1982*, and
- (c) which is not a motel, but does not include a bed and breakfast establishment.

In the context of the development application plans and the description of the use in the application, the layout and use of the 'group home precinct' are such that accommodation is provided, meals are provided, and communal laundry facilities are provided, as required by the boarding house definition (Part (a)). Parts (b) and (c) of the definition are not relevant. There is no requirement under the boarding house definition for the "building or place" to form or constitute a dwelling. It is considered that the proposed development meets this definition of boarding house.

Under Coffs Harbour City Local Environmental Plan 2000, boarding houses are prohibited in the Rural 1A Agriculture Zone.

Ancillary and incidental uses

The application is made on the basis that the accommodation parts of the development (within the main group home precinct building) are the dominant use, and that all other components of the development are permissible as ancillary or incidental components to this main use.

This means that, for this development, the following components are argued to be ancillary or incidental;

- The two separate staff accommodation dwellings
- The administration wing
- The existing dwelling to be retained as visitor accommodation
- The chapel building
- The exercise pavilion

The concept of ancillary or incidental development is a legitimate permissibility argument but whether or not a particular part of a development is ancillary (or not) is a question of scale and degree.

Where a part of the premises is used for a purpose which is subordinate to the purpose which inspires the use of another part, it is legitimate to disregard the former and to treat the dominant purpose as that for which the whole is being used.

The consideration of ancillary parts of a development is particularly important where, under a normal assessment of permissibility, the 'ancillary components' would be a prohibited use.

The separate staff accommodation dwellings and existing dwelling to be retained would be prohibited as 'multi unit housing' (not permissible in the zone). The administration wing would be prohibited as an 'office premises' (not permissible in the zone). The chapel building could be permissible in the zone as a 'place of worship'. The exercise pavilion could be permissible as a 'recreation facility'.

If any of the proposed ancillary parts are not ancillary but are independent, then those parts should be considered separately as independent uses in their own right

Separate staff accommodation dwellings

The staff accommodation dwellings will be erected some distance from the group home accommodation. These parts of the development are not considered subservient to, or dependent upon, the primary purpose but independent uses in their own right given their remoteness from the group home accommodation, their size and their scale.

Uses in the administration building

The two storey administration building comprises a substantial amount of administration floor space and includes three individual offices, a large open-form office, a meeting room, a waiting area, a tea room and a conference area. This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use its own right given the size and scale of this administration area. It is difficult to conceive that the administration areas proposed in this section of the building are directly required by the residential use but rather intended for an independent purpose.

Existing dwelling house to be retained as visitor accommodation

This part of the development is located a short distance from the group home accommodation. As it is existing it is limited in its size. An argument that this part is ancillary is stronger but this argument has not been successfully made.

Chapel

This building is substantial in size, is remote from the group home accommodation and will comprise a number of features, such as a court, furniture store, utility room, water feature and sacristy (vestment room). This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use its own right given its size, scale and remoteness.

Exercise pavilion and curtilage

This is a large building comprising a plunge pool, a lap pool, a weights room, a gym store, a steam room, communal change room, toilets, showers, communal gathering space and car parking. This part of the development is not considered subservient to, or dependent upon, the primary purpose but an independent use in its own right given the size and scale of this building.

Summary on Permissibility

The proposed development is not considered to constitute a transitional group home in that the residential component does not form or constitute a dwelling as required by the definition of 'transitional group home' (as defined under the Standard Instrument - Principal Local Environmental Plan). Notwithstanding this, even if the main use can be appropriately characterised as a group home, it is not considered that the other components of the development proposal are ancillary or incidental to the primary, 'dominant' use. The proposed use is not permissible and, therefore, cannot be approved.

Clause 12 Koala Habitat

This clause prevents Council from approving any development unless it is in accordance with a Koala Plan of Management.

Council's adopted Koala Plan of Management is relevant to consideration of this clause.

The site contains land which is mapped as Secondary Koala Habitat in accordance with this plan.

The proposed development is not within the area mapped as Koala Habitat and will not remove any native vegetation.

Clause 13 Landform Modification

The proposed development will not have the effect of significantly adversely affecting the natural environment, through either the filling proposed by the development or the excavation proposed by the development.

Appropriate conditions of approval can be applied, requiring implementation of typical sediment and erosion control provisions, in the event that the application is approved.

Clause 14 Services

This clause requires the consent authority to be satisfied that a water supply and facilities for the disposal of sewage are available on the land for the proposed development

The application proposes on-site waste water treatment. The proposed arrangement is acceptable. Water tanks are proposed for water supply. This is acceptable. There are no further matters to consider under this provision.

Clause 21 Heritage - Archaeological areas

The Coffs Harbour and District Local Aboriginal Land Council received notification of this development proposal. No submission from this department was received. The site is not one of any known archaeological item.

Clause 23 Environmental Hazards - Potential acid sulfate soils

The site has no mapped area showing any likelihood of potential acid sulfate soils. There are no further matters to consider.

Clause 23A Development on Flood Prone Land

In accordance with this clause the site is considered to contain some "flood prone land". In accordance with sub-clause 4, the consent must be satisfied that the proposed development will not:

- (a) *will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

The proposed development does not provide any changes to the site that will affect flood behaviour to the area.

- (b) *will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain, and*

The proposed development does not provide any changes to the site that will not alter flow distributions and velocities to the area.

- (c) *will enable safe occupation of the flood prone land, and*

Access to the site is via a constructed bridge over Bucca Bucca Creek. This access will be inundated from time to time during flood events. Many submissions have expressed concern about the isolation that residents and staff of the proposed group home will be subject to during times of flood.

Flood events on Bucca Bucca Creek occur regularly. Council recently completed the Orara River - Bucca Bucca Creek Flood Study that indicate the access road and bridge to the property would be impassable in a 20% ARI (Average Recurrence Interval or 5 year) flood event. Periods of isolation could be for two days or possibly longer depending on the rainfall and flood event. From the recently completed flood study the estimated 1% ARI (100 year) flood level is 80.5m AHD for the site in the vicinity of the access road and existing buildings. All proposed buildings will be located well above areas of flood inundation so residents and staff will not be subject to any immediate danger during flood events. As a flood management strategy, there is opportunity for individuals to "wait out" any flood event. This would require the provision of sufficient supplies for maximum flood events to be kept at the development site. These measures should form part of a Flood Management Strategy.

Flooding should be further addressed by planning and operational procedures to ensure safe and efficient operation. If the proposal was to proceed a detailed and comprehensive 'Flood Management Plan' for the development would be required in accordance with the SES Floodsafe toolkit for business.

- (d) *will not significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and*

The proposed development does not affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse.

- (e) *will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and*

The proposed development will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding

- (f) *is compatible with the flow conveyance function of the floodway, and*

The proposed development does not provide any changes that will effect the flow conveyance function of the floodway.

- (g) *is compatible with the flood hazard within the floodway.*

The proposed development is considered compatible with the flood hazard within the floodway

ii. *The provisions of any draft environmental planning instrument*

There are no draft environmental planning instruments that apply to the site or proposed development.

iii. *any Development Control Plan*

• ***Rural Lands Development Control Plan***

The proposed development generally complies with the provisions of this plan. The application included a site analysis and statement of environmental effects. The development proposes acceptable onsite wastewater management. Water supply will be via water tanks and this is acceptable.

The buildings are designed for the specific group home use and sited in locations that will not detract from the rural character given the size of the land of 95.41 hectares. Stormwater management is acceptable. On site parking is acceptable.

• ***Waste Management Development Control Plan***

The proposed development is not of a type anticipated by this development control plan. Notwithstanding, the proposed arrangement for waste management for this development is for private collection of waste within the development and then private transfer of waste to an approved waste management facility. Waste collection bins are proposed in relevant parts of the proposed development. The proposed development meets the objectives of this plan and is considered acceptable with respect to waste management.

• ***Access and Mobility Development Control Plan***

The plan specifies the requirements for equitable access to new developments. As a new development all buildings must also comply with the Building Code of Australia and the Disability (Access to Premises - Buildings) Standards 2010. The proposed development will comply with the objectives of this plan.

- ***Notification Development Control Plan***

This development control plan specifies the notification requirements for development applications. The application was notified in accordance with the requirements of this plan. There are no further matters to consider under this plan.

- ***Off Street Car Parking Development Control Plan***

This development control plan does not specify a car parking rate for a development of the type proposed by this application. Nine car parking spaces are proposed near the group home precinct buildings. Car parking spaces are also proposed at the other precincts of the development. The development has significant private road areas along which car parking can occur. The property is 95.41 hectares in area. Car parking is not an issue for this development.

- ***Nana Glen-Bucca Development Control Plan***

There are no specific development controls of this plan that relate to the proposed development.

The application included a site analysis and a statement of environmental effects. The development meets with the requirements under Basix. Acceptable on-site effluent disposal is proposed for the development. The development will not create any additional water rights.

The proposed development will not result in any conflicting elements as specified under the buffer distances of this plan. Notwithstanding, there is significant separation between properties and Bucca Bucca Creek as a vegetated buffer provides further buffers from the proposed use to nearby uses.

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

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,

Traffic impacts to road users in the area

The proposed development has been estimated as generating an additional forty daily traffic movements which is similar to the traffic generation of four dwellings. Submissions made on the application have questioned these figures. The average daily traffic volume on Bucca Road (near the Old Bucca Road intersection April 2010) is 1770 vehicles per day. A forty vehicle per day increase in traffic volumes represents an increase of 2.3% which is likely to have a negligible impact on traffic movements along Bucca Road.

The intersection of Randalls Road and Bucca Road has been considered in terms of its traffic function, in particular the sight distance at the intersection. It is considered that there is sufficient sight distance for adequate function of the intersection.

The existing road surface of Randalls Road is mostly unsealed. It is not satisfactory in its current condition. Some upgrading of the road is required to make the traffic impacts on this road acceptable.

Safety impacts to the area from additional crime and lack of security

A social impact assessment has been submitted with the application. The assessment considers this issue.

It concludes that, while concerns about safety and security are real, they are generally not supported by evidence that these impacts will occur and that many of these concerns are based on perception. It makes reference to a number of operational practices proposed to address these concerns including installation of CCTV throughout the development, full time supervision of residents by staff, regular drug testing of residents, a caretaker to monitor all visitors and a selection criteria of residents.

Flora and fauna impacts

A flora and fauna habitat assessment report was provided with the application. It identifies the key values and constraints of the site. It lists threatened species that were recorded on site or that have potential, or are likely, to occur on the site based on available habitat. It does not form an assessment of those matters under Section 5A of the *Environmental Planning and Assessment Act*. This is a required statutory assessment to determine the environmental impact of a proposed development under Section 79C of the *Environmental Planning and Assessment Act*.

As a result there is insufficient detail provided with the application to enable Council to determine whether or not there will be a significant impact on threatened species, communities and/or populations. In particular there has been insufficient detail to consider the matters specified under Section 5A of the *Environmental Planning and Assessment Act* as they relate to the following species.

- Koala
- Squirrel Glider
- Common Planigale
- Spotted-tailed Quoll
- Little Lorikeet
- Glossy Black Cockatoo
- Square-tailed Kite
- Threatened Rainforest Doves
- Powerful, Sooty and Masked Owl
- Micropteran Bats
- Orara Boronia
- Slender Screw Fern
- Slender Marsdenia
- Rusty Plum
- Milky Silkpod

- Moonee Quassia
- Rainforest Cassia
- Tylophora Woollsii
- Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions

Impact on platypus has been raised in a submission. The submission states that they live in Bucca Bucca Creek. The platypus is not threatened fauna so does not need to be considered under an assessment of matters under Section 5A of the Environmental Planning and Assessment Act. Notwithstanding, all buildings of the proposed development are some distance from Bucca Bucca Creek. Impact on the platypus is considered extremely unlikely.

With respect to flora a fauna impacts, the development application could not be approved without further assessment being provided.

Watercourse impacts

The proposed chapel of the development adjoins a watercourse. The watercourse is a minor watercourse; water does not flow through the channel all year round.

The NSW Department of Primary Industries - Office of Water was requested to provide comment on this issue. They raised no objection to the proposed development. They advised that they consider the works (proposed near the watercourse) to be of a minor nature and that they should not adversely impact on the watercourse subject to implementation of appropriate sediment and erosion controls.

Social impacts

A social impact assessment has been submitted with the application.

The assessment concludes that there will be a positive impact on those who participate in the residential therapeutic programs. Submissions provided in support of the proposal (from the Mid North Coast Area Health Service and the Mid North Coast Local Health District) also provide some evidence of community need for the proposed development.

The social Impact statement also provides the following comments in conclusion:

“The negative impacts of this development have been identified by residents living in the surrounding area. From the submissions received it is evident that this development is believed to have a negative impact on the ‘sense of place’ that residents have to the area. Residents fear that this will be lost.

The sense of place is that of a rural area and residents ‘connection’ being due to their work on the land, or because of general lifestyle reasons. The rural characteristic is quiet, peaceful and safe and residents fear that this development is in conflict with these characteristics and therefore their sense of place will be lost. The factors that lead to this loss can be either real or perceived.

The issues raised by residents have been considered and addressed. The concerns regarding safety are not supported as there has been no evidence to suggest otherwise from the operation of Adele’s other programs. The concerns however are real for the residents and should not be discounted. Therefore, careful consideration has been provided in the application and any perceived impacts are clearly responded to in reply to public submissions. The Adele facility does not change the land use of the area. It is contained on one site and operates in a self sufficient manner. On that basis, the actual social impact on the broader community is minimal.”

Impact on agriculture

A very small portion of the site is mapped under the NSW Department of Planning's Mid North Coast Farmland Mapping Project. The area is only that part of the site that adjoins Bucca Bucca Creek.

Only areas of the site that will be physically occupied by buildings of the development will be prevented from use for ongoing agriculture. The use by its nature will not affect other parts of the site for agriculture. Similarly for other properties in the area the development is unlikely to have any affect.

Noise and amenity impacts

The proposed development is unlikely to produce any noise impacts greater than those typical of a large dwelling or agricultural pursuits in the area.

The recreation precinct, which was a component of the development that residents of the area expressed concern about with respect to noise, has been withdrawn from the application. The proposed development is considered acceptable with respect to noise impacts.

Other amenity impacts are unlikely due to the large size of the property and the separation of the proposed development from nearby dwellings. Some impact from additional traffic on Randalls Road may occur but this would be mitigated to a degree by upgrading works to Randalls Road.

Visual amenity and lighting impacts

While the development is significant in size and scale, the development site is approximately 1.8 kilometres from Bucca Road. The site is also 95.41 hectares in area and the separation between the proposed buildings and other dwellings in the area is significant. An assessment of sight lines from the proposed development to nearby dwellings has been provided with the application. Few dwellings will have a direct line of site to proposed buildings of the development. As a result it is considered unlikely that visual impact from the proposed development will be unacceptable.

Plans of anticipated light spill have been provided with the application. The group home building is generally oriented to the north where the site adjoins Sherwood Nature Reserve (and not adjoining properties). Building openings and windows are generally oriented in this direction and lighting will therefore 'spill' in this direction. Some lighting of roadways and parking areas is proposed with small bollards. Unacceptable impact, as a result of lighting to the development, is considered unlikely.

Impact on Property Values:

A number of submissions state that approval of the proposal will decrease land and property values in the area and suggest that this is grounds for refusal of the application.

While decline in property values is often raised as an issue of concern with development proposals, the generally accepted assessment position is that property values should not be assessed in isolation of other potential impacts that may result from the development (such as amenity impacts). The determining authority is required to consider likely impact of a proposed development and not perceived impacts which may be a component in determining a property's value. Subsequently, the issue of property values should only be considered in conjunction with other issues of the proposal.

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

Compatibility with the rural area

The proposed development is a use that is not typical for a rural area and the buildings will be large compared to many typical rural dwellings and out buildings. Notwithstanding this, the majority of the property will remain undeveloped and in a form similar to that of a typical rural property. The site is large at 95.41 hectares and this means that there is significant separation between the development and surrounding dwellings of the area. The separation distances of the property from nearby dwellings also means that amenity and visual impacts will also be very limited. Given these characteristics of the site and the locality, it is considered that the proposed development is not unsuitable with the rural area and that it can co-exist with the rural area.

Flooding

Access to the site is via an existing bridge over Bucca Bucca Creek. This access will be inundated from time to time during flood events. Many submissions have expressed concern about the isolation that residents and staff of the proposed group home will be subject to during times of flood.

Flood events on Bucca Bucca Creek occur regularly. Council recently completed the Orara River - Bucca Bucca Creek Flood Study that indicates the access road and bridge to the property would be impassable in a 20% ARI (Average Recurrence Interval or 5 year) flood event. Periods of isolation could be for two days or possibly longer depending on the rainfall and flood event. From the recently completed flood study the estimated 1% ARI (100 year) flood level is 80.5m AHD for the site in the vicinity of the access road and existing buildings. All proposed buildings will be located well above areas of flood inundation so residents and staff will not be subject to any immediate danger during flood events. As a flood management strategy, there is opportunity for individuals to "wait out" any flood event. This would require the provision of sufficient supplies for maximum flood events to be kept at the development site. These measures should form part of a Flood Management Strategy.

Flooding should be further addressed by planning and operational procedures to ensure safe and efficient operation. If the proposal was to proceed a detailed and comprehensive 'Flood Management Plan' for the development would be required in accordance with the SES Floodsafe toolkit for business. Flood management plans are a typical requirement for any sites that have some affectation from flooding. The need for flood management plan does not mean that the site is not suitable for the proposed development.

Access to the site

The existing road surface of Randalls Road is mostly unsealed. It is not satisfactory in its current condition. The additional traffic generated by the proposed development warrants some upgrading if the development was to proceed. It is recommended that Randalls Road be upgraded in the following way:

- Provide sufficient carriageway width to accommodate two way traffic;
- Provide a four metre bitumen seal on Randalls Road from the existing seal at the Bucca Road intersection to the existing seal approximately 0.8km further to the north and from the end of the existing seal to the Bucca Bucca Creek Bridge.
- Ease the vertical curve at the steep section leading to the Bucca Bucca Creek bridge crossing.

- Provide stabilised table drains as necessary.
- Remove sufficient exotic vegetation from the road reserve on the northern portion (the last 260m approximately before the bridge) of Randalls Road to reduce shading and improve visibility for motorists travelling north into this section of road.
- Provide notice on the Bucca Bucca Creek setting a 20 tonne load limit.
- Provide a graveled turnaround area on the northern side of the Bucca Bucca Creek bridge.
- Where it is impractical due to adverse site constraints to widen the carriageway to accommodate two way traffic, passing bays can be provided within sight distance of one and the other but with no greater than 50m spacing.

The Randalls Road access to the site also includes a crossing of Bucca Bucca Creek. The documentation provided with the development application included an engineering assessment of the adequacy of the creek crossing. The existing bridge is considered acceptable for the proposed development in its current condition.

There is some possibility that the bridge and road surface will get damaged during construction. Dilapidation reports of the road and bridge should be provided both before construction and after construction to ensure that damage that occurs during construction is rectified by the developer.

Isolation of the site from Police services and other emergency services

There is no evidence that the staff or residents of the proposed development will have a need to access police or other emergency services that is greater than any other members of the community.

In addition, the social impact assessment submitted with the application makes reference to a number of proposed operational practices related to on-site security. These include installation of CCTV throughout the development, full time supervision of residents by staff, a caretaker to monitor all visitors and a selection criteria of residents.

Power supply to the area

One submission suggests that the area may not be suitable for the proposed development as the area is often subject to power “black outs”. If the development was to proceed this could be adequately addressed by the operator providing an alternative emergency power supply that is regularly maintained so that it is available if grid power supply not available at any time.

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

Public submissions

The application has been through two periods of community consultation. For the community consultation period from 20 January 2012 to 2 February 2012, ten submission where received. For the community consultation period from 29 March 2012 to 20 April 2012, fifty-three submissions were received. There has been some “double up” of submissions, for example, some submissions were provided to Andrew Fraser MP and then forwarded to Council.

A summary of issues raised in submissions is appended to this report. The matters raised in submissions are dealt with in this report based on the subject matter of the concern raised. Where a submission states that certain planning documents have not been considered, these are dealt with in the relevant sections of the s79C Evaluation. Matters that are not relevant to assessment of a development application have not been considered but the matters noted. It would not be lawful if a matter, not required to be considered, effected a determinative decision of a consent authority. The following matters are not addressed elsewhere in this report.

Determination by the NSW Joint Regional Planning Panel

Some submissions have stated that a decision on the application by the Joint Regional Planning Panel is not a decision by those who represent the community interest.

While the panel does not form “elected” representation this is the consent process that has been established for certain developments under the Environmental Planning and Assessment Act (and planning instruments under that Act). The Panel is still required to consider the public interest in its determination.

Fire

Some submissions have expressed concern that residents of the development will not be safe in the event of fire. This issue is partly addressed in the response from the NSW Rural Fire Service (see below). In addition, all new buildings must comply with all requirements of the Building Code of Australia which has stringent building construction standards that relate to the safety of occupants in the event of fire.

Response from NSW Rural Fire Service

The application was referred to the NSW Rural Fire Service as an integrated development referral requesting general terms of approval. The Service has provided general terms of approval subject to a number of conditions. This response indicates that the development may proceed subject to compliance with these conditions.

Most conditions correspond with predetermined requirements for development in bushfire prone areas as specified in Planning for Bushfire Protection 2006. If the development was to proceed it must comply with all these conditions. The applicant has indicated that these conditions are acceptable and can be complied with.

Response from the NSW Police Service

The application was referred to the NSW Police Service. They did not express any specific concerns with the proposal but provided the following general comments;

- The developer should ensure that light levels are appropriate for users of the development
- that consideration should be given to utilising alarms in staff residences and administration areas
- that safes or lockable receptacles should be provided for residents in twin share rooms for personal belongings
- that a key register should be developed
- that a suitable safe should be installed in the administration area
- that door locks to be to Australian Standards
- that signage be provided to delineate staff areas from resident areas.

If the development was to proceed, then these matters could be incorporated into conditions of development consent.

Response from NSW Department of Primary Industries - Office of Water

The application was referred to the NSW Department of Primary Industries - Office of Water for comment on the Chapel component of the development given its location near a watercourse. They advised that they consider the works (proposed near the watercourse) to be of a minor nature and that they should not adversely impact on the watercourse subject to implementation of appropriate sediment and erosion controls.

e. *the public interest:*

Consideration of this matter requires an evaluation of the benefits that will be obtained from the development proposal in contrast to actual impacts of the proposed development.

As addressed elsewhere in this report, amenity impact that may result from the proposed development are considered acceptable, the development is considered suitable in its location given the features of the site and location relevant to other rural development in the area. The development is not considered incompatible but can coexist with the area. The proposed development is not considered contrary to the public interest. The application has been notified in accordance with Council's controls and evaluated in accordance with statutory requirements.

Summary of Issues Raised in Submissions on Development Application 259/12

- The proposed development is not a permissible development in the zone as it is not a “household environment” nor a “single household”.
- Group home definition does not allow drug and alcohol treatment.
- Isolation of the site by flooding.
- Unacceptable traffic impact to road users of Bucca Road and Randalls Road.
- Speed limit on Bucca Road is currently 100km/hr.
- Randalls Road is not of a sufficient standard.
- Adverse impact on public safety.
- Community impact by bringing people with drug and alcohol problems to the area.
- Development will result in an increase in antisocial activity to the area.
- Development will bring additional crime to the area.
- Development will result in an increase in “break ins” to the area.
- No security provided at the development.
- Size and scale of the development is incompatible with the character of this area.
- Inappropriate use for the area.
- Not an appropriate location for the development as black outs regularly occur in the area.
- Contrary to the Crown Lands Act – requires consent.
- Public access to crown land creates security risk for the development
- Reference to potential bat habitat in the flora and fauna report and recommendation in the report for a targeted bat survey means that fauna surveys should be undertaken prior to determination.
- The flora and fauna assessment does not sufficiently demonstrate how/why the development will not have an adverse impact on koalas.
- Regional wildlife corridor for the Sherwood Nature Reserve has not been sufficiently considered.
- No Section 5A assessment.
- The development will impact on Platypus which live in Bucca Bucca Creek.
- Negative social impact from the proposed development.
- Adverse impact on mental wellbeing of surrounding land owners.
- Police and emergency services are thirty minutes away from proposed development.
- Adverse impact on agriculture.
- Adverse impacts from noise.
- Adverse impacts on privacy.
- Adverse impacts from noise and dust during construction.

- Adverse impact from lighting.
- Adverse impact on visual amenity.
- Concern about the likelihood of success for the proposed development.
- Validity of drug rehabilitation programs questioned.
- Opinion that rehabilitation of the kind proposed by this development is not effective.
- Development is integrated development and must follow this process.
- Adverse impact on property values.
- Need for a social impact assessment.
- NSW Department of Agriculture should be consulted.
- Development application was not notified for a sufficient period of time.
- Proper documentation not submitted with application.
- No cultural heritage survey undertaken.
- Not in accordance with principles of ecologically sustainable development.
- Lack of services for the development including; potable water, sewerage, rubbish collection, communications, power supply and water management.
- Development does not comply with provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- Development is not consistent with *State Environmental Planning Policy (Rural Lands) 2008*.
- Development is not consistent with the *North Coast Regional Environmental Plan*.
- Development is contrary to the *Nana Glen/Bucca Development Control Plan*.
- Vulnerable clients may not understand dangers that an isolated rural property holds; snakes, spiders, goannas etc and may risk their own safety and staff safety.
- Inference that application will be approved from the Adele website.
- Letters of support incorrectly state that the site is remote.
- Determination by the NSW Joint Regional Planning Panel is not a decision by those who represent the community interest.
- Danger to residents in the event of fire.

CORPORATE BUSINESS DEPARTMENT REPORTS

CB12/56 MONTHLY BUDGET REVIEW FOR MAY 2012

Purpose:

To report on the estimated budget position as at 31 May 2012.

Description of Item:

Estimated Budget Position as at 31 May 2012:

	General Account \$	Water Account \$	Sewer Account \$
Original Budget adopted 23 June 2011	182,220 (D)	4,897,205 (D)	3,591,600 (D)
Approved Variations to 30 April 2012	(219,090) (S)	40,794 (D)	80,000 (D)
Recommended variations for May 2012	Nil	Nil	84,143 (D)
Estimated result as at 31 May 2012	<u>(36,870) (S)</u>	<u>4,937,999 (D)</u>	3,755,743 (D)

General Account

Deficit/(Surplus)

Reduction in general rate income due to valuation objections being processed 28,828 (D)
 Increase in interest income on overdue rates due to higher levels of debt and higher interest rate applied for 2011/12 of 11% compared to previous rate of 10% (28,828) (S)

Digital Local Government Project (DLGP), primarily funded by grant through Department of Broadband, Communications and the Digital Economy. Project will assist with the delivery of ePlanning services 386,204 (D)
 Federal government grant for DLGP (374,920) (S)
 Council contribution towards DLGP redirected from Councils current budget for ePlanning services (11,284) (S)

Rural roads unsealed maintenance surplus has arisen from grading plant being stood down for 71 days this year from wet weather / servicing etc. (150,000) (S)
 The over-expenditure within Rural Sealed Maintenance has arisen from the demand generated from failed pavement on the sealed road network and the need to allocate available resources to it. 150,000 (D)

Total Nil

Water Account

Total Nil

Sewer Account

Sewer Access Charges budget reduced in line with anticipated income 72,407 (D)
 Reduction in Pensioner Rate Subsidy due to decrease in rebate expense 11,736 (D)

Total 84,143 (D)

Cont'd

Sustainability Assessment:

- **Environment**

There are no perceived short or long-term environmental impacts.

- **Social**

There are no perceived short or long term social impacts.

- **Civic Leadership**

Council strives to reach a balanced budget position by June 30 each year in conjunction with meeting its short term priorities.

- **Economic**

Broader Economic Implications

When dealing with increased community demands Council has to focus on the balance of providing services with the limited funds available. Council must also ensure that a healthy financial position is maintained to ensure ongoing viability of the organisation.

Delivery Program/Operational Plan Implications

The Original budget for the General Account adopted on the 23 June 2011 provided for a deficit of \$182,220.

For substantial budget adjustments the associated council reports have addressed the triple bottom line factors independently in 2011/12.

Consultation:

Managers and their relevant staff have been provided with electronic budget reports for each program on a monthly basis. Requested variations and variations adopted by Council have been included in the report.

Related Policy and / or Precedents:

The Director of Corporate Business has provided guidelines to staff regarding their responsibilities relating to effective and transparent budget review and assessment processes. This framework provides guidance in achieving the objective of a year end balanced budget in the General Fund.

Statutory Requirements:

Under local government regulations Council is required to submit a quarterly budget review to Council. Therefore Council is under no obligation to provide monthly reviews but has recommended they be completed as part of prudent financial management.

The Responsible Accounting Officer believes this report indicates the financial position of the Council is satisfactory, having regard to the original estimate of Income and Expenditure.

Cont'd

Issues:

Currently any major budget issues are collated and addressed on a monthly basis via a separate report to the Corporate Development Team.

Implementation Date / Priority:

Management will continue to monitor the organisation's performance with a view to improving service delivery.

Recommendation:

That the budget adjustments be approved and the current budget position be noted.

Estimated Budget Position as at 31 May 2012:

	General Account \$	Water Account \$	Sewer Account \$
Original Budget adopted 23 June 2011	182,220 (D)	4,897,205 (D)	3,591,600 (D)
Approved Variations to 30 April 2012	(219,090) (S)	40,794 (D)	80,000 (D)
Recommended variations for May 2012	Nil	Nil	84,143 (D)
Estimated result as at 31 May 2012	<u>(36,870) (S)</u>	<u>4,937,999 (D)</u>	3,755,743 (D)

CB12/57 TENDER: SUPPLY AND INSTALLATION OF RELOCATABLE COMMUNITY AMENITY - WOOLGOOLGA LAKESIDE CARAVAN PARK - CONTRACT NO. RFT-541-TO

Purpose:

To report on tenders received for the Supply and Installation of Relocatable Community Amenity - Woolgoolga Lakeside Caravan Park and to gain Council approval to appoint a single contractor to carry out the proposed works.

Description of Item:

Council called open tenders with a Lump Sum Schedule, for the Supply and Installation of Relocatable Community Amenity – Woolgoolga Lakeside Caravan Park that closed at 3.30pm on Tuesday 19 June 2012. Tenders were advertised in *The Sydney Morning Herald* and the local *Coffs Coast Independent* newspaper as well as being placed via Council's electronic Tenderlink Portal.

Tenders were evaluated on the following criteria:

- Tender Price
- Experience and performance in similar works
- Details and logic of construction program
- WHS management system and performance

Tenders were received from the following Companies:

1. Parkwood Modular Buildings Pty Ltd
2. Marathon Group Pty Ltd
3. HF Constructions
4. Wendgold Pty Ltd
5. Castlereagh Building & Construction Pty Ltd

There was also one (1) non-conforming tender received from:

Compact Group Pty Ltd

Sustainability Assessment:

- **Environment**

Coffs Coast Holiday Parks placed great importance on the Relocatable Community Amenity being as environmentally friendly as possible - both efficiency in operating and also in regard to emissions. The amenity was designed to provide a functional, contemporary and visually appealing facility. With the environment in mind the facility will be largely self-sufficient with the hot water supplied via solar preheated water from solar collectors situated on the amenity block roof and the balance of the hot water heated with efficient LPG heat exchangers. A large 4500 litre water tank connected to the roof plumbing will supply water to all toilets in the amenity block. PV Cells are also placed on the roof with the electricity generated going back into the grid.

Cont'd

CB12/57 Tender: Supply and Installation of Relocatable Community Amenity - Woolgoolga Lakeside Caravan Park - Contract No. RFT-541-TO ...(Cont'd)

The funds generated by the tourist operations are put towards the environmental management of areas within the State Parks.

- **Social**

Coffs Coast Holiday Parks is a business that provides a social hub for visitors to the Coffs Coast. The upgrade of the amenity block ensures that the guests that visit Woolgoolga Lakeside Caravan Park have access to the most modern amenity block available. With the system designed to be as efficient, reliable and environmentally friendly as possible it is hoped the Parks will generate more visitors to the area.

- **Civic Leadership**

This tender shows Council's leadership within the community by promoting our own procurement policy guidelines.

Coffs Harbour City Council operates a diversified procurement system and has set the standards for minimising the risks to the expenditure of public funds. Businesses contracted by Coffs Harbour City Council must provide public liability, personal sickness and/or workers' compensation insurances.

- **Economic**

Broader Economic Implications

The funds generated by the tourist operations are put towards the management of areas within the State Park. It is envisaged that the upgrade of the amenity block in Woolgoolga Lakeside Caravan Park will enhance the experience of guests and in turn generate return visits to Coffs Harbour.

Delivery Program/Operational Plan Implications

As a part of the Coffs Harbour City Councils Business Units the capital budget for the four Coffs Coast Holiday Parks is reviewed annually in line with business forecast.

Consultation:

During the preparation of the tender, Council's Manager – Holiday Parks and Reserves, Assistant Manager – Operations and Operations Supervisor were consulted as were the Councils Purchasing Manager and Contracts Manager. The amenity block was designed by an external consultant.

Related Policy and / or Precedents:

Tendering procedures were carried out in accordance with Council's Tender Policy Guidelines. Council's Tender Value Selection System was applied during the tender review process to determine the most advantageous offer/s. Council policy is that the tender/s with the highest weighted score becomes the recommended tender/s.

Cont'd

CB12/57 Tender: Supply and Installation of Relocatable Community Amenity - Woolgoolga Lakeside Caravan Park - Contract No. RFT-541-TO ...(Cont'd)

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.

Issues:

There most important issue that will need to be considered is scheduling the construction program in a way that the works will not impact on Park guests. The scheduling of works will take into account the occupancy rate of the Park and the particular area the amenity block services. Coffs Coast Holiday Parks takes pride in offering our guests the best possible holiday and Coffs Coast Holiday Parks will ensure that the Amenity upgrade will have the least disruption to guests as possible.

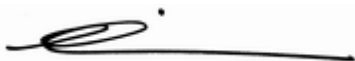
Implementation Date / Priority:

The contract is for amenity upgrade in the Woolgoolga Lakeside Caravan Park.

A detailed construction program and commencement date will be confirmed with discussions to take place between Coffs Coast Holiday Parks management and the successful tenderer.

Recommendation:

That Council considers and approves tenders received for the Supply and Installation of relocatable Community Amenity - Woolgoolga Lakeside Caravan Park as identified in the confidential attachment.



**Craig Milburn
Director
Corporate Business**

QUESTION ON NOTICE

QON12/9 LIQUID FUELS POLICY

Purpose:

Councillor Rodney Degens has asked the following questions:

1. Could Council outline in its update, strategies it has put in place to reduce oil consumption? I know of two right now, 1 is the set of bicycles, 2 is the beginnings of a car pooling website. Perhaps there are more.
2. Could Council suggest further initiatives that are worthy of further investigation, that could help Council to achieve a reduction in liquid fuel usage?
3. Does Council have any suggestions as to what an achievable target for reduction of liquid fuel usage might be given the current conditions in 2012?

Staff Comment:

Current practices:

1. Following the introduction of the bicycle fleet to Council the bikes have been moved to different areas to maximise their use and to minimise fuel consumption.
2. Council's involvement in the car pooling website is aimed at reducing fuel consumption for the community and does not have a great impact on Council.
3. Introduction of E10 has significant benefits for the environment however the end result is increased fuel consumption.
4. Review of utilisation of large plant has revealed the plant usage is at optimum levels. All plant that was not fully utilised has been sold. Further reduction of plant would not be cost effective to Council and would have an impact on both capital works and maintenance programs. Major plant is responsible for 79.07% of the diesel fuel consumption.
5. All light commercial vehicles on scheduled changeover are being changed to diesel vehicles.
6. Incentive programs are in place to reduce larger vehicles from the fleet.

Further initiatives:

1. Measures are in place to reduce the number of fleet vehicles by reviewing the requirement for fleet vehicle availability when employees who have an existing vehicle leave Council's employment or change positions within the organisation.
2. The latest technologies and standards are used in the purchasing decisions for all new plant and equipment. Fuel efficiency is a criteria in this process.
3. Use of hybrid trucks is being investigated for varying work projects by Council.
4. Investigation of the potential use of electric cars in the fleet is not viable or practical at this stage of development.
5. Investigation of alternative fuels at this stage has not proved viable as it is not available commercially in a standard that is acceptable by manufacturers that will not void warranties of plant and equipment.

Achievable targets for 2012:

Council continually strives to reduce the usage of liquid fuel. Fluctuations are determined by external factors and the demand of both maintenance and capital works to be carried out in Council's commitment to the community.
