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MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 90 of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

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1. ORIGIN: Subdivisions Unit

FILE REF: DA1180/382 Pt5

REPORT TITLE:

Proposed 94 Lot Subdivision at Lot 1 DP 811425, Lot 7 DP 1014470, Lot 6 DP1014470 and Lot 5 DP 1014470 Coast Road, South Kingscliff - Casuarina Beach Stage 6 (DA 0681/2000DA)

SUMMARY OF REPORT:

Council is in receipt of an application proposing the Stage 6 subdivision of the Casuarina Beach development into 97 lots. The applicant initially proposed to carry out the stage 6 development over two (2) stages – Stage 6a and Stage 6b. Stage 6a incorporates the creation of 97 lots, whilst proposed stage 6b incorporates the creation of 26 allotments. The stage 6b component of the application has since been withdrawn.

- Stage 6a – 97 allotments (residential, public reserves, medium density & residue)

The proposal consists of conventional allotments, public reserves and parking areas and larger lots for higher density development, which will be subject to future development applications.

This application is over Management Lots 5, 6 and 7 (as per the stage 1 consent) and the former ‘Narui’ land (hereon referred to as the ‘Richtech’ site). The value of the works proposed is estimated at \$3,890,000.

Numerous discussions have been held between the applicant and Council officers in order to clarify and resolve issues to a point where a recommendation for approval can be made. Draft conditions have been discussed with the applicant, with a number of conditions not agreed upon. In this regard, the applicant has provided Council with the following response dated 9 August 2000.

The following changes to the recommended conditions have been proposed by the applicant.

“Condition 47(viii) should read as follows:-

Condition 47(viii)(a) The applicant/developer shall provide a bond to the value of 120% of half the cost of construction of a road and park area to be constructed within the Crown Road Reserve long the northern boundary of the land subject of this application. The road together with parking, set down, and park area shall be constructed in accordance with Cardno MBK Plan 7034/1/11 and typical sections 1, 2 & 3.

Condition 47(viii)(b) Upon reaching agreement with adjoining owners and upon the Crown reserve road being transferred to Tweed Council, within 2 years of the date of this consent, the applicant may at its discretion and at its expense, construct the road, parking areas, and park as referred to in 47(viii)(a). Upon completion of the works any bond provided securing the works shall be returned to the applicant.

Condition 47(viii)(c) Should the Crown Reserve Road not be transferred to Council as trustee or owner within 2 years of the date of this consent then any bond as lodged by the applicant/developer shall be returned to the applicant/developer.”

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Comment

This condition is considered unsatisfactory. The applicant initially put forward engineering plans showing 2.0m to 3.0m high retaining wall along the northern property boundary. Following discussions with Council officers, the proposal was amended in accordance with the recommended condition 47. The recommended condition was originally proposed by the applicant themselves and agreed to, subject to very minor changes by Council officers. This agreement took place at a meeting between the applicants and Council officers on 1 August 2000. The proposal is considered to be contradictory to the agreement reached between the applicant and Council officers to date, however, time has not enabled a detailed review of the amended condition to be completed. This will be undertaken and further changes recommended if appropriate.

“Condition 47(xi) should read as follows:-

Road 4 shall be cul-de-saced at either end where it abuts Road 1 and the Crown Reserve Road on the northern boundary of the land. Road 11 shall not be connected to Road 2 and appropriate landscape barriers shall be placed near the alignment of Road 2 and Road 11. A pedestrian access at the alignment of Road 2 and Road 11 and at the alignment of Road 4 and Road 11 shall be provided. Pedestrian access only shall be provided at the alignment of Road 4 and the Crown Reserve Road on the northern boundary of the land the subject of this application”.

Comment

The proposed condition is considered unsatisfactory. The provision of culs-de-sac in the proposed areas is considered likely to compromise the provision of adequate vehicular and pedestrian connectivity throughout the site.

“Condition 47(xii) should be deleted”.

Comment

The proposal is considered unsatisfactory. Again, it is considered that this proposal will compromise vehicular and pedestrian connectivity throughout the site.

“Condition 47(xiii) should be deleted”.

Comment

This proposal is considered unsatisfactory. Again, it is considered this proposal will compromise vehicular and pedestrian connectivity and safety throughout the site.

“Condition 83(A) This condition should be amended to refer to two dogs following conversations with your officers and the Mayor. The amendment makes sense.”

Comment

The restriction to one dog per allotment is carried over from both the stage 1 consent (issued by the Land and Environment Court) and existing restrictions on title. In this regard amendment of the condition is considered unsatisfactory.

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Whilst it is considered that those conditions listed above should not be amended, Council may at its discretion resolve to approve the proposed modified conditions as put forward by the applicant.

RECOMMENDATION:

That Development Application No. 0681/2000DA for a 94 lot subdivision of Lot 1 DP 811425, Lot 7 DP 1014470, Lot 6 DP1014470 and Lot 5 DP 1014470 Coast Road, South Kingscliff (Casuarina Beach Stage 6) be approved subject to the following conditions:-

PRE-REQUISITES - conditions that must be complied with prior to the release of a construction certificate

1. Prior to the issue of a Construction Certificate a Fire Management Plan is to be submitted and approved by Council. The plan shall address potential environmental impacts, including impacts on threatened species.
2. A detailed plan of landscaping is to be submitted and approved by Council prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans. The detailed landscaping plan shall include a list of species, which ensure no potential for seed transfer to Lot 500, which would conflict with the propagation and maintenance of species, specified in the Dune Management Plan and Lot 500 Management Plan.
3. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, prior to issue of the Construction Certificate. The applicant shall submit evidence to Council that the traffic control plan has been prepared by an authorised person. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
4. Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
 - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
5. The Stage 6 application is to be consistent with the lot boundaries of open space lots 8, 9, 13 & 14 in DP 1014470.
6. Notwithstanding any other condition of this consent, a construction certificate for bulk earthworks may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a construction certificate for all subdivision works subject to compliance with the following conditions:- 3, 4, 14, 15, 16, 17, 18, 21, 24, 25, 27, 34 (relating to bulk earthworks only), 35 (relating to bulk earthworks only), 36, 47 (viii),

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(xii), (xiv), 52, 54, 55, 56, 58, 59, 60, 61, 62(d), (ii), (iii), (iv), (v), (vi), (vii), 64, 73, 74, 75, 76, 78, 79, 80, 84.

GENERAL

7. Prior to the issue of a Subdivision Certificate pursuant to this consent ALL works bonded pursuant to Consent S96/135 for Stage 1 shall be completed to the satisfaction of Council.
8. Construction of each section of walkway / cycleway immediately east of any management lot shall be completed prior to the release of the linen plan for subdivision of the respective management lot.
9. The design of the walkway shall be integrated with any adjacent proposed car parking areas and beach access points and shall extend for the full frontage of the land including, where necessary, within the Crown Foreshore Reserve subject to the approval of the Reserves Trust.
10. This consent does not give approval to proposed Stage 6b, which shall be subject to a fresh development application.
11. A total of 75 public parking spaces are to be provided along the eastern side of proposed road 11, in accordance with the Stage 6 concept master plan. The subject parking spaces are to be designed and constructed in accordance with Council's Development Control Plan No. 2 – Site Access & Parking Code.
12. Submission of separate development application/s for further development of the proposed residue lot and medium density allotments (proposed lots 113, 169, 171, 172, 173, 174, 175, 176 & 177).
13. The Architectural Design Regulations shall not be included in any legal document to be administered by Council. NOTE: Some aspects of the ADR such as setbacks, fencing etc will need to be incorporated into a DCP for control by Council. Accordingly, DCP 11 – Kings Beach will need to be amended to incorporate the following conditions;
 - (i) The minimum setback from the street front boundary to the wall of a dwelling is to be not less than six (6) metres.

The minimum setback from the street front boundary to the wall of a single garage is to be not less than 5.4 metres and not less than 5 metres to the wall of a double garage.

Special design elements such as verandahs, entrances and the like constructed of open design shall be setback a minimum of 3 metres from the front street boundary.
 - (ii) The minimum side boundary setback for any dwelling shall be not less than 900mm to the wall and not less than 675mm to the outer most projection of the eave.

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- (iii) The minimum setback from a secondary street boundary of a corner lot to the wall of a dwelling is to be not less than 3 metres.
- (iv) For beachfront lots, the rear building line is the boundary line between the 2(e) and 7(f) zones. No structures are permitted within the 7(f) zone.
- (v) All fencing east of the 7(f) and 2(e) zone boundary shall be a maximum height of not more than 1.2 metres.

The above conditions (i)-(v) can be varied by Council subject to the merits of each development application.

- 14. The development shall be completed in general accordance with Figures E403, E404 and E405 prepared by Cardno MBK and dated May 2000, except where varied by these conditions.
- 15. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
- 16. No soil, sand, gravel, clay or other material shall be disposed of off the site without the approval of Council.
- 17. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of Council prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- 18. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
- 19. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No DA2000/681 have been complied with.
- 20. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
 - i. Easements for sewer, water supply and stormwater drainage over ALL services on private property.
 - ii. A restriction as to user requiring that all roofwater from dwellings shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principal Certifying Authority.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such

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restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

21. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
22. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
23. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
24. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of Council.

The sign is to remain in place until the Subdivision Certificate is issued.

25. It shall be the responsibility of the applicant to ensure that at all times the 'Optus Cable', which traverses the subject site, is protected from construction damage.

The applicant must identify the location of the cable prior to the commencement of construction. The cover over the cable shall not be permanently increased or decreased without the consent of the owner of the cable.

26. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
27. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services PRIOR to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
28. In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.

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Open Space

Casual Open Space

29. The cycleway / walkway corridor shall be landscaped and fenced in accordance with plans to be submitted and approved before work commences.
30. Dedication, at no cost, to Council of the local parks (proposed lots 170, 179 & 180). These parks are to be suitably embellished including but not limited to filling, topsoiling, grading, seeding, planting, installation of seating and play ground equipment and shade cover. Details to be submitted with the Construction Certificate application to the satisfaction of Council. The embellishment works shall be completed prior to release of the linen plan.

Active Open Space

31. Prior to the release of the Stage 6a linen plans, the applicant shall embellish the active open space Stage 1 Management Lot 10 DP 1014470 to the satisfaction of Council in accordance with detailed plans to be submitted and approved with the Construction Certificate application. Such embellishment shall be in accordance with S.94 Plan No. 19, including, but not limited to:-
 - (a) Being capable of use as playing fields (i.e. level of acceptable geometric shape and drained).
 - (b) Top dressing, seeded and landscaped, including irrigation facilities.
 - (c) Council will also require provision of an amenities block for the structured open space area, with appropriate vehicular parking and pedestrian access.

CONTRIBUTIONS

32. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Stage 6A

- a. Tweed Road Contribution Plan:

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93 lots @ \$2394 per lot \$222,642.00

Local Contribution

93 lots @ \$554 per lot \$51,522.00

A credit for local contribution will apply in relation to works on these intersections, pursuant to the stage 2, 3 & 4 consents.

S94 Plan No. 4 (Version 4.0)

(Duranbah/Cabarita/Kings Forest Development - Residential)

If any available credits are not consumed by the Stage 2 Consent No. K99/1360, Stage 3 Consent No. K99/1733, or Stage 4 Consent No. K99/1732, Council will apply credits towards this contribution in relation to the amount that is determined as credit pursuant to Condition 12(a)(i) of the Stage 1 Consent S96/135 and Section 94 Plan No. 4.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads

(trip one way)

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

b. Street Trees: 93 lots @ \$42.90 per lot \$3,989.70

S94 Plan No. 6

c. Shirewide Library Facilities:

93 lots @ \$300 per lot \$27,900.00

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S94 Plan No. 11

- d. Eviron Cemetery/Crematorium Facilities:

93 lots @ \$126 per lot \$11,718.00

S94 Plan No. 13

- e. Bus Shelters: 93 lots @ \$23 per lot \$2,139.00

S94 Plan No. 12

- f. Emergency Facilities (Surf Lifesaving)

93 lots @ \$250 per lot \$23,250.00

S94 Plan No. 16

- g. Extensions to Council Administration Offices
& Technical Support Facilities

93 lots @ \$344.81 per lot \$32,067.33

S94 Plan No. 18

- h. Structured Open Space 93 lots @ \$640 per lot \$59,520.00

S94 Plan No. 19

NB: The works required by Condition No. 31 shall be credited against this contribution for an approved amount in accordance with the provisions of Section 94 Plan No. 19

- i. Cycleways 93 lots @ \$160 per lot \$14,880.00

S94 Plan No. 22

NB. Contribution to be credited against cost of works in condition No. 49.

- j. Community Facilities: 93 lots @ \$497 per lot \$46,221.00

S94 Plan No. 19

33. A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's

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“Contribution Sheet” and a “Certificate of Compliance” signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Stage 6A

Water: 93 lots @ \$3590 per lot \$333,870.00

Local Section 64 Water Supply levy 93 lots @ \$205 per lot \$19,065.00

Sewer: 93 lots @ \$2970 per lot \$276,210.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

FURTHER APPROVALS

34. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and required by this consent.

The following information must accompany applications for a construction certificate for subdivision work.

(i) Subdivision Work

In the case of an application for a construction certificate for subdivision work required by this consent:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works

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- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, NorthPower and Telstra)
- the approved Traffic Control Plan
- the relevant maintenance manuals (eg. G.P.T's, water pump station)

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

35. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
36. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount of \$10,000.
- The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of Council.
- The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.
37. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

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- (i) The following information must accompany an application:
- a) Original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$115 per lot
Stage 6A- 97 lots @ \$115/lot = \$11,155.00.
 - b) Relevant development consent or complying development certificate
 - c) Detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
 - d) Evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
 - e) A certificate of compliance from the relevant water supply authority (where applicable)
 - f) If a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
 - g) For subdivision involving subdivision works evidence that:
 - (i) the work has been completed, or
 - (ii) agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - (iii) security given to the consent authority with respect to the completion of the work
 - h) Work as Executed Plans for ALL works
 - (ii) Documentary evidence that all matters contained in Section 109J of the Act have been complied with.
 - (iii) Written evidence from Council that the proposed road/street names have been approved.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

38. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (i) Compliance Certificate - Roads

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- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station/vacuum pots
- (v) Compliance Certificate - Drainage

Note:

- (1). Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.
- (2) Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling

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- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Sewer Pump Station

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- (3) The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".

- 39. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor AND a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

Note: Where Council carries out works on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

- 40. Prior to the issue of a Subdivision Certificate a maintenance bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

- 41. (i) PRIOR to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names.

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Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

- (ii) To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

The names shall be approved PRIOR to lodgement of any plan of subdivision in respect of the development.

Names which duplicate existing and approved street names will not be approved.

- 42. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
 - i. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
 - ii. That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
 - iii. That the pavement layers have been compacted to RTA specifications.
 - iv. That site fill areas have been compacted to the specified standard.
 - v. That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - vi. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- 43. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of Council.
- 44. The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.

ROADS/STREETS

- 45. Submission of documentary evidence that adequate vehicular access in accordance with Council's 'Access to Property' pamphlet, can be provided to each lot.
- 46. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans referred to in Condition No. 15 AND the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

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47. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction of the roads in the subdivision shall be generally in accordance with Cardno MBK Figures E423 and E423A, except where varied by the table below, and where varied by these conditions.
 - ii. Road cross sections employing “roll over” kerbing with a minimum of 0.9m abutting grass filter verge containing street lighting and street trees, to discourage parking on the footpath.
 - iii. A native tree planting schedule for each of the roads in the table below showing the location and species of each street tree, clear of driveways and sight lines.
 - iv. Proposed traffic calming devices must comply with the relevant Australian Standard and the NSW Roads and Traffic Authority technical direction for raised platforms. Detailed design plans shall be submitted with the construction certificate application.
 - v. Drainage inlets are to be relocated to avoid conflict with pram ramps for cycleway/walkways.
 - vi. Roundabouts shall be constructed at the following intersections in accordance with Austroads Pt.6 – Roundabouts;

Road No. 1 and Road No. 7 – Outside circulating diameter to be 30.0m

Road No. 10 and Road No. 7 – Outside circulating diameter to be 28.0m

Road No. 3 and Road No. 5 – Outside circulating diameter to be 28.0m
 - vii. The engineering plan shall provide for bus shelters on Road No. 7 and Road No. 11. The location of these bus shelters shall be determined after consultation by the applicant with the bus operators. The type and style of the bus shelters shall be approved by Council prior to installation and shall be clearly identified on the engineering plans lodged with the Construction Certificate.
 - viii. The crown road reserve along the northern boundary shall be constructed in two (2) sections. On the western section, from the intersection with Catherine Street in an easterly direction, to a point where a minimum of 50 on-street car parking spaces are provided west of lot 500, the road shall have a 7.5m asphaltic concrete pavement, roll over kerb on both sides, and a 1.2m wide concrete footpath on the southern side. For the remainder of its length, sufficient to accommodate 50 parking spaces, the road shall consist of a 13.0m wide pavement, consisting of two (2) x 3.75m traffic lanes, and a 5.5m parking bay. A concrete footpath 1.2m wide will be provided on the southern side of the road reserve, and roll over kerb shall be provided on both sides. The overall roadworks shall extend from the western boundary of lot 500 to the intersection with Catherine Street. Where necessary, the earthworks shall be permitted to batter down into adjoining allotments in Seaside City. The batter slope shall not exceed 1 in 4, and shall be

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suitably stabilised using vegetation and or other engineering means to prevent erosion. The Construction Certificate application shall provide details of proposed drainage discharge to the north of the crown road reserve, including a lawful point of discharge, and the written consent of affected owners.

- ix. A roundabout shall be constructed at the intersection of the existing Coast Road and the newly constructed Crown road reserve in accordance with Austroads Pt.6 – Roundabouts. The outside circulating diameter shall be 28.0m.
- x. The future connection point for the realignment of the Coast Road shall be Catherine Street.
- xi. Roads 4 and 11 & 2 and 11 shall be through roads and the constructed pavement for Road No. 11 shall be connected at the same level to the constructed pavements of Road No. 4 and Road No. 2. There shall be a pedestrian link between Road 6 and the east / west Crown Road.
- xii. Road 4 and the constructed east west Crown Road (to be constructed pursuant to condition 48 (viii), shall be continuous.
- xiii. Intersection treatment to the satisfaction of the Director Engineering Services shall be provided at the intersection of Road No. 4 and the Crown road reserve. This treatment shall ensure the safety of motorists given the non-conforming intersection spacing between Road No. 4 and a future road in Seaside City.
- xiv. The bulk earthworks and engineering plans shall ensure the continuity of the existing realigned Coast Road is maintained at all times.
- xv. Notwithstanding any steps within the Road Reserve boundary, the minimum road pavement and footway widths shall be maintained for the full length of all roads and shall be in accordance with the table below.

Figure	Road Number	Min. Road Reserve	Min. Carriageway Width	Min. Footway Width
E423	1	20.0m	9.0m	5.5m (paved footways widths 2.5m north side and 1.5m south side)
E423A	3	20.0m	9.0m	5.5m (paved footway width 1.2m both sides)
E423A	5	16.0m	7.5m	4.25m (single paved footway width 1.2m)
E423A	6	14.0m	7.5m	3.25m
E423	7	20.0m	11.0m	4.5m (paved footway widths 2.5m on eastern side & 1.5m on the western side)
E423	8	16.0m	7.5m	4.25m(paved footway widths 1.2m both sides)

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E423	9	14.0m	7.5m	3.25m(single paved footway 1.2m wide)
E423	10	20.0m	2x5.5m plus 2.0m medium	3.5m(paved footway width 1.5m both sides)
E423/E423A	11 ch 0.0 - 130.0 & ch 480 - 612	18.0m	11.0m	3.5m(paved footway width 1.5m both sides)
E423/E423A	11 ch 140 - 480	16.0m	9.0m	3.5m(paved footway width 1.5m both sides)
E423A	12	14.0m	7.5m	3.25m(single paved footway 1.2m)
E423A	13	20.0m	9.0m	5.5m(paved footway width 1.2m both sides)

48. All permanent cul-de-sacs shall be constructed with kerb radius of 9.0m and a minimum footway width of 3.0m.
49. i. All cycleway, walkways and coastal walkway/cycleways shall be designed in accordance with Austroads Guide to Traffic Engineering Practice Part 14 and AMCORD provisions for single and shared footway/cycleway (Element 1.4 and PND17), and construction in accordance with engineering plans and specifications which accompany the construction certificate application which shall be approved by the Director, Development Services.
- ii. Pursuant to Section 94 Plan No. 19 and to be consistent with Condition 39(a)-(e) of Development Consent S96/135 issued by the Land and Environment Court on 16 December, 1998, the applicant shall construct all cycleways, walkways and coastal walkways/cycleways applicable to Stage 6 as shown on Map 5 contained within Section 94 Plan No. 19.
- iii. Alternatively, the developer may, in the case of residential frontage footpaths, pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
- iv. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.
50. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of Council.

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DRAINAGE/FLOODING

51. All fill of new residential lots is to be graded at 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate application.
52. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped with the exception of infiltration basins.
53. All roofwater from dwellings shall be discharged to infiltration pits located on each subject allotment. The design of the infiltration pits shall be submitted with the Application for the dwelling and approved by the Certifying Authority.
54. All proposed building pads are to be above the Q100 design flood level, including provision for any localised overland flow, such that at least 300mm freeboard is provided to the satisfaction of the Director Development Services.
55. The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.
56. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
57. Prior to final acceptance of the Stormwater system and release of the maintenance bond a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.
58. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond/infiltration basins prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.
59. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion

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control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

60. (a) For the purpose of this condition “trunk drainage” shall be defined as:
- (i) The “trunk drainage” defined in the consent conditions of DAK99/1733 (Casuarina Beach Stage 3, being the drain along the coastal frontage of Stage 3 to the south east corner of proposed lot 82 in Stage 3 and the east/west continuation of this drain, downstream to Controlled Outlet No. 11 as generally located on Cardno MBK Figure E216 Rev B. The ultimate point of discharge for this part of the development shall be Controlled Outlet No. 11.)
 - (ii) The drainage paths between the east draining stormwater outlets from proposed stage 6 and the coastal frontage drain included in (i) above.
 - (iii) No stormwater runoff shall be discharged to the west of the realigned Coast Road, other than from half the width of road 3.
- (b) The ultimate lawful point of discharge for east flowing stormwater runoff from this application shall be controlled outlet No. 11.
- (c) Trunk drainage shall be designed to convey Q100 stormwater discharge. The trunk drainage shall be constructed and the land (containing the drain) dedicated to Council or easements created. In the section between proposed lot 70 of stage 3 and Controlled Outlet No. 11, the land to be dedicated (or easement) shall include the drain and provision for maintenance vehicle access, the maintenance vehicle access shall be constructed to all weather, two wheel drive standard.
- (d) The trunk drainage along the coastal boundary, and elsewhere, shall be designed to accommodate Q100 (no infiltration) flows with a minimum 300mm freeboard. Separate approval is required for any drainage along the coastal boundary that requires filling or any other ancillary works on adjacent land. Where consistent with other land use requirements, grassed swale drainage is to be used in preference to pipes or hard lined channels. In designated public open space areas, open drains will only be permitted if the resultant landform is satisfactory to Council for open space purposes.
61. The subject land shall be shaped in general accordance with Cardno MBK. Revised Final Levels – 6a, as attached to the letter from Cardno MBK dated 25 July 2000 as limited by Figure E426 “Bulk Earthworks” except as follows;
- (i) The levels adjacent to the Crown Road at the northern end of the subdivision shall not vary from the existing levels by more than approximately 500mm (the Crown road on the northern boundary may be converted to public road, formed and drained to achieve this) and;

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- (ii) Where the proposed levels are inconsistent with existing levels on adjacent land, retaining walls (and any necessary ancillary or drainage works) shall be provided on the lot boundaries to ensure the land shaping has no adverse affect on adjoining land. Plans and specifications of the retaining walls and ancillary works and the written approval of the adjacent landowner shall be submitted with the construction certificate application.

NB. As an alternative, the applicant may submit a proposal with the construction certificate application for simultaneous reshaping and draining of both the subject land and adjacent land. Such a proposal must be authorised by all affected land owners and indemnify Council from any action resulting from the execution of the proposal or any landforming activity that may adversely affect adjoining land.

- (iii) Provision shall be made to ensure surface runoff does not discharge onto lot 500 or other adjoining land, except where required by Condition 48(viii).
- (iv) Provision shall be made to accept up to Q100 natural or existing surface runoff from adjacent land that discharges onto the subject land.

62. Permanent Stormwater Quality Treatment

(A) Stormwater Quality Objectives

Permanent stormwater quality treatment shall comply with “Tweed Urban Stormwater Quality Management Plan” (adopted by Council 19 April 2000) section 5.5.3 “Stormwater Objectives During the Post Construction or Occupational Phase of Development” . New development is required to comply with table 5.4 and demonstrate compliance by modelling in accordance with section 5.5.4 of the Plan:

Section 5.5.5 of the plan further advises that treatment is in accordance with the “deemed to comply” provisions of Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality is deemed to comply with the objectives in 5.5.3”.

“Table 5.4 Stormwater Treatment Objectives for Post Construction (Occupational) Phase of Development

Pollutant			
Nutrients	Maximum permissible load that may be discharged kg/ha/year		
	Average year (1719mm)	Wet Year (2185mm)	Dry Year (929mm)
Suspended solids (SS)	300	400	120
Total Phosphorus (TP)	0.8	1.1	0.35
Total Nitrogen (TN)	4.5	6	1.5
Litter	Retention 70% of annual litter load greater than 5mm		
Coarse sediment	Retention of 90% of annual load of sediment coarser than 0.125 mm		
Oil and grease (hydrocarbons)	<10 mg/litre in flows up to 40% of Q1 peak.”		

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Note: The Water Quality Management and Monitoring Program contained in Cardno MBK letter of 21 February 2000 containing proposals for Water Quality Management generally achieves the above objectives.

(B) Water Sensitive Design

Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse. These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients, and provide for appropriate operation, cleaning and maintenance of water quality control devices.

(C) Infiltration

- i. Infiltration areas are to be sized with a safety factor of 2 (this is to allow for long term deterioration in infiltration rate).
- ii. Runoff entering infiltration trenches/basins shall be pre-treated to remove sediment and gross pollutants.
- iii. The infiltration rate for infiltration devices shall be determined as follows
 - (i) Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994 - Disposal Systems for Effluent from Domestic Premises.
 - (ii) If the above calculation yields a result $<6\text{m/day}$, this rate may be used for design.
 - (iii) If the result is $>6\text{m/day}$, the rate for design may not exceed 6m/day unless this rate is confirmed by independently determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. Notwithstanding these tests, the maximum infiltration rate that may be used for design and sizing purposes is 12m/day

(D) Specific Requirements

Permanent stormwater quality devices are to be designed in accordance with these conditions and "Tweed Urban Stormwater Quality Management Plan" Appendix E – Tweed Shire Council, Aus-pec D7 – Stormwater Quality, and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate Application.

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Unless stated otherwise, references in brackets refer to sections on devices in NSW EPA publication "Managing Urban Stormwater - Treatment Techniques, November 1997".

- (i) Roof drainage. All future roof drainage is to be discharged to infiltration trenches located on each contributing allotment or on other land appropriately title burdened to the contributing allotment. Infiltration trenches shall be designed in accordance with the following criteria:
 - As a minimum requirement, trenches are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24 hour period, with a safety factor of 2, before surcharging occurs.
 - Surchage overflow from the infiltration area to the street gutter, interallotment or public drainage system must occur by visible surface flow.
 - Runoff is to be pre treated to remove contaminants prior to entry into the absorption areas (to maximise life of absorption areas between major cleaning/maintenance overhauls).
 - If the site is under strata or community title, the strata/community title plan is to ensure that the absorption areas are contained within common areas that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (ii) Where consistent with other land use requirements, grassed swale drainage (Ref 5.2) is to be used in preference to pipes or hard lined channels

Note: Swales are not preferred as a substitute for kerb and gutter

 - where on street parking is required, unless cars can be excluded from swale area
 - on roads serving small lots with numerous driveways
 - where gradients are <1% or >5%)
- (iii) Oil/Grit Separators (ref 4.7), permanent pool 30m³ per impervious hectare, with 50-70% of this volume in first chamber (or alternative devices approved by Council) are to be provided in the underground road/hardstand stormwater drainage systems to remove sediment, litter and oil/grease prior to discharge onto the coastal drain/infiltration area.
- (iv) Infiltration basins (ref 5.6) shall be provided for west flowing runoff prior to discharge from outlets on residue lot 113. The applicant shall ensure infiltration of runoff from all contributing stormwater for flows of up to 40% of ultimate Q_{1 year}. Infiltration basin sizing shall be determined on a catchment basis. For the purpose of this consent a "catchment" shall be the total area draining controlled outlet No. 11. The infiltration basins shall be contained within reserves to be dedicated to Council. As an interim measure the infiltration basins for west flowing runoff may

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be located in easements, pending finalisation of the layout for all of stage 1 management lots 6 and 7. The basins may only be contained within designated public open space areas, if the resultant landform is satisfactory to the Director of Environment and Community Services.

- (v) Infiltration basins are to consist of raw dune sand with an minimal vegetation cover of endemic dune grasses. No topsoil, mulch or other vegetative matter is to be used on infiltration basin surfaces and no establishment, operation or maintenance procedures are permitted that may reduce surface permeability.
63. Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *“Tweed Urban Stormwater Quality Management Plan”* (adopted by Council 19 April 2000) section 5.5.2 “Stormwater Objectives During the Construction Phase of New Development”. This section requires all new development to comply with Appendix E of the Plan *“Tweed Shire Council Aus-Spec D7 - Stormwater Quality”* and its Annexure A - “Code of Practice for Soil and Water Management on Construction Works”. Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.
64. This condition refers to proposed lots 169,171,172,173,174, 175,176, 177 and 178.

Prior to the issue of any Subdivision Certificate the following shall be required;

- (i) Sufficient permanent infrastructure must be constructed in the subdivision that creates these lots so that they may be capable of being developed to their ultimate capacity by subsequent applicants without any requirements for provision or augmentation of external infrastructure. All proposed infrastructure that crosses the boundaries of these lots or runs adjacent to their boundaries must be constructed in the subdivision that creates the lots.
- (ii) These lots shall be provided with interim and ultimate drainage inlets on the lots or at lot boundaries. The interim period is defined as that time between the creation of the lot and the development of the lots. The lots shall be shaped to ensure all interim Q5 concentrated drainage and surface runoff from slopes longer than 40m is discharged to these inlets. Provision shall be made outside the lots for acceptance and transport of ultimate and interim Q100 flows from the lots.
- (iii) Where infrastructure required to serve a future development lot, passes through another lot, easements in favour of Council shall be granted over the infrastructure (and necessary access roads to such infrastructure).
- (iv) Any public utilities currently located in these lots are to be either relocated to public land or easements created over the existing alignments

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SERVICES

Sewer

65. The applicant shall lodge detailed engineering plans with the construction certificate application for the Sewerage Reticulation and Pumping System.
66. i. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

- ii. Any Sewerage Works required by the Stage 1 Consent S96/135 which have been bonded shall be completed to the satisfaction of the Director of Engineering Services PRIOR to release of the linen plan.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

67. Prior to final acceptance of the Sewer system and release of the maintenance bond a CCTV inspection of the sewer pipes will be required to demonstrate that the standard of the sewer system is acceptable to Council.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

Water

68. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

69. The applicant shall lodge with the Construction Certificate application for stage 6A a detailed demand analysis for the proposed pipe network, which clearly shows that peak demand and fire fighting requirements are satisfied.

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70. (i) The existing 250dia. water main as shown on Figure E422 shall be upgraded to a 450dia water main generally in accordance with the Statement of Evidence Report on Water Supply Infrastructure prepared by P.N. Casey and dated September 1998.
- (ii) No individual house connections shall be allowed to this 450dia trunk main. A separate reticulation water main suitably sized shall be required to service allotments.
- (iii) At least one (1) week prior to the decommissioning of the 250dia water main and the commissioning of the 450dia water main, the applicant shall notify all affected residents of the disruption to their water supply. The Director Engineering Services shall approve the notification program. Council shall supervise all works at the applicant's expense.

Telephone

71. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply, prior to issue of a Subdivision Certificate.

Electricity

72. i. The production of written evidence from NorthPower certifying that reticulation of underground electricity has been completed; and
- ii. Prior to the issue of a Subdivision Certificate, the reticulation to include the provision of fully installed electric street and parkland pathway lights to the relevant Australian standard. Such lights are to be capable of being energised following a formal request by Council. The proposed location and style of lighting standards (clear of other public utilities, private accesses and street trees) are to be submitted with the Construction Certificate Application.

ENVIRONMENT PROTECTION

73. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
74. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
75. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
76. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
77. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
 - ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
 - iii) Densely plant with sub-tropical (rainforest) native and native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
 - iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
 - v) The landscaping shall be completed to the satisfaction of the Director Development Services PRIOR to the issue of a Subdivision Certificate.
 - vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
78. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
79. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
80. Construction site work including the entering and leaving of vehicles is to be restricted to between 6.00 am and 8.00 pm Monday to Saturday and no work on Sundays, providing that no residential premises are adjacent to the site, in which case, construction times are to be restricted to 7.00am to 7.00pm Monday to Saturday.
81. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

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82. The following restrictions apply to dog and cat ownership and control on all residential lots:-

- A. i. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one de-sexed cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
- ii. No dog shall be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
- iii. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.

These ownership and control requirements shall be reinforced by a Restrictions as to User under Section 88B of the Conveyancing Act, 1919-1964.

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied and modified only with the consent of Council.

- B. The applicant shall prepare a list of non-endemic garden plants that have a reputation for becoming environmental weeds on coastal sands on the Tweed. The list is to be approved by the Council granting delegated authority to the Director Environment & Community Services. The growing of plants in the list shall be prohibited on the subject land by way of a Restriction as to User under Section 88B of the Conveyancing Act.

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied or modified only with the consent of Council.

83. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording to the satisfaction of Council.

84. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

- 85. i. Submission of documentary evidence that Part V Approval has been obtained for those works to be undertaken in accordance with the Dune Management Plan and Lot 500 Management Plan required by Consent S96/135 issued by the Land and Environment Court on 10 December, 1998.
- ii. The Dune Management Plan and Lot 500 Management Plan prepared by Aspect North and dated 29 May 2000 shall be implemented in accordance with any Part V Approval obtained pursuant to Condition 87(i) to the satisfaction of Council.

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86. In accordance with Condition 34 of Consent S96/135 for Stage 1, prior to issuing a Construction Certificate for development of any management lot, all existing bitou bush plants shall be removed from that lot and the resultant disturbed areas shall be treated to suppress dust nuisance and soil erosion pending any development thereof.
87. PRIOR to any work commencing pursuant to this consent, a suitable fence shall be erected on the alignment of the eastern extremity of the approved work to ensure that no unauthorised works or disturbance occur within Lot 500.
88. The applicant shall add to the submitted Acid Sulfate Soil Management Plan (page 8), the following requirement:- *'Council will be informed within 7 days of any non-compliant results, particularly in relation to exceedances of the nominated range for each water quality parameter'*.
89. In accordance with the provisions of condition 41(d) of Consent S96/135 for Stage 1 and as required by the National Parks and Wildlife Service in their letters dated 24 May, 2000 and 1 August 2000, the following requirements shall be complied with:-
- i. Drainage swales/open space corridors rising east/west shall be replanted with suitable indigenous vegetation sourced locally to assist the east/west dispersal of wildlife.
 - ii. A minimum of 300 Banksias are to be planted in each development lot in areas of public and private open space. These trees may include large (greater than 10cm DBH) individuals translocated from areas where their clearing is essential for the development design. These trees should be located in clumps and as far away from urban areas and lighting as possible.
 - iii. All large mature Banksias, up to a maximum of 30 per management lot, in public or private open space, drainage swales etc, are to be marked and retained unless their removal is approved by Council in order to satisfy its requirements for open space and/or the proponents design of the development. Where such a tree is removed, a tree of similar size shall replace it, taken from an area where it would otherwise be lost, and translocated into an unconstrained area of the lot.
 - iv. The proponent shall monitor and maintain as necessary any translocated trees for a period of one year from the date of consent in order to promote their survival.
 - v. In respect of the north-western area, as identified in the Gunninah report and pursuant to the requirements of the National Parks & Wildlife Service, clearing is to be deferred for a period of four (4) years from 1 July 1999, or an alternative biological timeframe to be agreed between the applicant, NPWS and Tweed Shire Council.
 - vi. In respect of the commercial area, clearing may commence within four years from 1 June 1999 in accordance with an agreed biological timeframe provided that adequate mitigation measures can be demonstrated to NPWS and Tweed Shire Council.

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90. Compliance with the following condition imposed by the Department of Urban Affairs and Planning in granting concurrence to development in the 7(f) zone as follows:-
 - a. The proposal shall not provide for beach access for vehicles or pedestrians from either the carpark or from the public walkway / cycleway, unless such access is consistent with a management plan which covers the public foreshore areas and is agreed to by both the Council and the Department of Land & Water Conservation

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REPORT:

Applicant: Kings Beach Project No. 2 Pty Ltd (Consolidated Properties)
Owner: Lenen Pty Ltd
Location: Lot 1 DP 811425, Lot 7 DP 1014470, Lot 6 DP1014470 and Lot 5 DP 1014470 Coast Road, South Kingscliff
Zoning: Part 2(e) Residential (Tourist) and Part 7(f) Environmental Protection (Coastal Lands Zone)
Est. Cost: \$3,89 million

BACKGROUND

Council has received a development application (DA0681/2000DA) for the subdivision of the subject land into 97 lots, consisting of 93 residential lots, 1 residue lot and 3 open space lots. The proposed subdivision is located over Management Lots 5, 6 and 7 as approved under the Stage 1 consent. The proposal also incorporates the 'Richtech' site. A flora and assessment accompanies this application. The site was zoned Residential/Tourist in 1989 for urban development following the preparation of the South Kingscliff Study.

Whilst it is acknowledged that the proposal is generally consistent with the relevant requirements and is considered unlikely to create any significant adverse impacts, a number of issues have been identified.

The northern boundary of the subject site adjoins an unformed crown road reserve, which in turn adjoins the 'Seaside City' site, presently in the ownership of Lenen Pty Ltd. Engineering plans accompanying the subject application incorporated the erection of a 2.0 to 2.5m high retaining wall along the majority of this boundary. In this regard, concern exists in relation to future pedestrian and vehicular connectivity with the 'Seaside City' site and the adequate collection and disposal of hydraulic flows. Pedestrian and vehicular connectivity concerns are also identified in other areas of the proposed development. The applicant has attempted to address those concerns relating to the northern property interface via the submission of amended engineering details, however, a number of issues in this regard, remain in dispute. These issues are discussed in more detail throughout the report.

The following is a history of development consents relating to the entire Kings Beach site.

- On 16 December 1998, the Land and Environment Court issued development consent S96/135 for the subdivision of the subject land into 14 lots and the carrying out of Stage 1 works. It is considered that all relevant conditions of development consent S96/135 have been satisfied or can otherwise be addressed by the recommended conditions.
- On 31 May 2000, Council resolved to grant consent (K99/1360) for the subdivision of management lots 1, 2, 12 and parts of 3, 9 and 13 into 82 lots at the Kings Beach site. This is otherwise known as Stage 2.
- On 31 May 2000, Council resolved to grant consent (K99/1733) for the subdivision of management lots 5, 7, 14 and part 13 into 86 lots at the Kings Beach site. This is otherwise known as Stage 3.

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- On 31 May 2000, Council resolved to grant consent (K99/1732) for the subdivision of management lots 3, 4, 9 and part of 13 into 101 lots at the Kings Beach site. This is otherwise known as Stage 4.
- On 29 May 2000, Council received development application/s DA2000/680 (Stage 5) and DA2000/681 (Stage 6). Stage 6 is the subject of this report. Stage 5 is the subject of a separate report.

Consent S96/135 (Stage 1)

As previously discussed the Land and Environment Court issued consent for the subdivision of the subject land into 14 lots and the carrying out of Stage 1 works.

Conditions of consent S96/135 which affect this application are discussed below:-

“A (i) *The subdivision of the land into 14 lots as shown generally on the Subdivision Plan*”.

Comment:

The application is generally consistent with the Subdivision Plan.

“A (iii) *The development of the management lots for the purposes of low and medium density residential, retail, commercial and tourist development together with associated and related uses and facilities generally in accordance with the Development Plan*”.

Comment:

The Stage 6 Development Master Plan is not the same as the Development Plan but is considered to be “generally in accordance” with same.

The Kings Beach Concept Master Plan submitted with the development application is not the same as the Development Plan approved by the Court. The Kings Beach Concept Master Plan includes the ‘Richtech’ coastal site. The stage 1 consent has been modified to reflect the inclusion of this land.

“1. *The total population yield from the development of the Management Lots in accordance with the further development consents referred to in Condition 2 shall be based upon the following estimates:*

<i>Lots</i>	<i>Population</i>
<i>1</i>	<i>550</i>
<i>2</i>	<i>620</i>
<i>3</i>	<i>1100</i>
<i>4</i>	<i>700</i>
<i>5</i>	<i>1520</i>
<i>6</i>	<i>400</i>
<i>7</i>	<i>710</i>
<i>Total</i>	<i>5600</i>

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Comment:

This application does not achieve the identified population yields for management lots 5, 6 and 7. The estimated population yields in the Stage 1 consent for management lots 5, 6 and 7 is 2,630 persons. The subject application will only result in a population yield of 245 persons, which is well below the provisions of the DCP. In addition, the proposal also includes the Richtech Land (Lot 1 DP 811425), which has not been included in the population yields in the above table or in the DCP and Section 94 Plan (See section (iii) of this report under DCP11 - Kings Beach for further comments on this issue). The DCP11 and Section 94 Plan should be amended to reflect the above figures in the event that Council approves this development application.

“3. The development shall be carried out generally in accordance with the Development Plan, except where varied by these conditions”.

Comment:

See A(i) above.

“18 (iv) A report detailing water sampling results from the surface water and groundwater monitoring programs shall be submitted to Council prior to the commencement of any new stage of the development, including details of any relevant previous failure to meet water quality discharge objectives or standards. The report shall include a recommendation as to any proposed amelioration works required to be implemented to rectify the said failures and shall further include an indication as to whether the development may satisfactorily proceed.”

Comment:

A Water Quality Monitoring and Management Program has been submitted for this application and is to the general satisfaction of the Environment and community Services Division.

“32. The following controls shall apply to dog and cat ownership and a restriction as to user shall be created on the Management Lots under Section 88B of the Conveyancing Act, 1919-1964 in the following terms:

- i. No property owner shall have more than one dog or one de-sexed cat;*
- ii. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and that any owners of cats within the development be restricted to one de-sexed cat per allotment and to have their cats restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.*
- iii. No dog to be registered without the construction of a dog-proof compound, which must be approved by Council and the relevant fee paid by the applicant.*
- iv. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.*

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This section 88B Instrument shall make provision for amendment, revocation or variation of restriction required by this conditions only with the approval of Council as the authorised authority.”

Comment:

This condition should be imposed on any consent for this application.

“34 Prior to issuing a construction certificate for future development of any Management Lot, all existing Bitou bush plants shall be removed from that lot and the resultant disturbed areas shall be treated to suppress dust nuisance and soil erosion pending any development thereof”.

Comment:

This condition should be imposed on any consent for this application.

“35. A Dune Management Plan shall be prepared to the satisfaction of the Director of Development Services in respect of the Foredune lands adjoining the Land and be submitted in conjunction with the Part XII Engineering Plans”.

Comment

A Dune Management Plan has been submitted and approved by Council and the Department of Land and Water Conservation.

Consent under Part V of the Environmental Planning & Assessment Act, 1979, is required for the works proposed in the Dune Management Plan. To date, no approval has been received for the works proposed by the Dune Management Plan. It is therefore considered that any consent should be conditioned to require the applicant to demonstrate that approval under Part V has been obtained.

“38. The land shown on the Subdivision Plan as Lots 8, 9, 10, 11, 12, 13 and 14 shall be dedicated to the Council as public open space at no cost in conjunction with registration of the linen plan of subdivision creating the allotments”.

Comment:

These lots were dedicated at the time of the stage 1 linen plan release and registration on 26 June 2000.

“39a The proposed regional coastal walkway/cycleway within Land zoned 7(f) as shown on the Development Plan shall be constructed generally in accordance with detailed engineering plans to be submitted prior to the release of the Stage 1 linen plans of subdivision and approved prior to work on the said walkway/cycleway commencing”.

Comment:

The coastal walkway/cycleway shown on the application plans are located over the Richtech site, which was not part of the stage one (1) consent. The proposal is however, generally consistent with the concept master plan. Although final engineering plans for the cycleway/walkway have not been

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submitted, this does not preclude approval of this development application subject to appropriate conditions.

39b Construction of each section of walkway/cycleway immediately east of any management lot shall be completed prior to the release of the linen plan for future subdivision of the respective management lot”.

Comment:

This condition should be imposed on any consent.

“39c Notwithstanding the previous paragraph the walkway/cycleway adjacent to Lots 1, 2, 3, 4, 5, and 7 must be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1 or the re-subdivision of the management lots or immediately following construction of the cycleway/walkway from Cudgen Headland to the northern boundary of the land, whichever occurs first”.

Comment:

This will be included as a condition on any consent for this application.

“39e The design of the walkway shall be integrated with any adjacent proposed car parking areas and beach access points and shall extend for the full frontage of the land including, where necessary, within the Crown Foreshore Reserve subject to the written approval of the Reserves Trust”.

Comment:

Any consent will be conditioned appropriately.

“39f The application and/or owner shall prepare and submit a plan for the approval of the Director of Development Services within 6 months of the release of the linen plan for Stage 1, for the embellishment works on Lots 12, 13 and 14 and such plan shall provide for:

- (i) removal of bitou bush and other noxious weeds.*
- (ii) rehabilitation of the area consistent with the Dune Management Plan referred to in Condition 35 of the Consent Orders and good practice in this regard.*
- (iii) provision of adequate and appropriate security lighting for users of Lots 12, 13 and 14.*
- (iv) provision of suitable related day visitor facilities, generally consistent with drawings contained in Appendix E to the statement of Environment Effects”.*

“39g (i) A schedule for the implementation of the embellishment works including the relationship between the works set out in f(iii) and (iv) to the development of any management lots shall be submitted and approved by the Director, Development Services as part of the plan referred to in Condition 39(f).

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- (ii) *The embellishment works required by Conditions 39(f)(i-iv) shall be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1.*
- (iii) *If the walkway/cycleway or any part thereof is constructed in accordance with Condition 39(b) then the embellishment works referred to in this condition or in Condition 39(f)(i-iv) shall be carried out concurrently in respect of Lots 12, 13 and 14 in which the walkway/cycleway is constructed.*
- (iv) *If at the time of sale by Lenen Pty Ltd of any of lots 1 to 5 and 7 and the embellishment works referred to in Condition 39(f)(i-v) have not been completed in Lots 12, 13 and 14 as those lots are immediately east of the management lot as then sold the applicant shall provide in respect of those embellishment works a bond equivalent to the cost of those works plus 20%”.*

Comments:

It is considered that the requirements of conditions 39(f) and 39(g) can be adequately conditioned on any consent for this application.

- “41(a) *Any development application with respect to any of the Management Lots shall provide for the planting of not fewer than the number of Banksia integrifolia shown in the Table hereunder against each such lot and totalling not less than 5400 stems provided that those numbers shall be reduced so that they total the difference between 14000 and the total number of stems planted pursuant to condition 40 (where they total more than 8600).*

To avoid the potential for a Banksia monoculture, the numbers of Banksias proposed for replanting shall include a proportion of other relevant flowering native species depending on the location for replanting. These other relevant species shall be of a type that provides a food source for the Queensland Blossom Bat. Approximately 20% of the planting shall comprise other relevant flowering species.

Lot No	Compensatory Planting (stem numbers)
1	690
2	382
3	1256
4	1232
5	1435
6	49*
7	356
Total	5400

Comments:

An extract from the report on the “Impact on Common Blossom Bat Habitat for Stage 2 Development” prepared by James Warren and Associates is provided as follows:

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15000 trees have been planted in accordance with the Vegetation Management Plan. Plantings have predominantly been undertaken on Management Lot 8 (west of the new Coast Road) and the Richtech land in the areas defined in the Amelioration plan”.

Based on advice from NPWS dated 16 May 2000, this condition has been satisfactorily complied with, subject to a minimum of 300 Banksias being planted in each Management Lot. An appropriate condition is applicable in this regard. See further comments in relation to Condition 41(d), 46 and 47.

“41(c) *The Applicant shall within 6 months of the date of this consent provide to the Council and the National Parks and Wildlife Service an estimate of the number of productive inflorescences that are within the site of the relocated Coast Road and the Management Lots at that time.”*

“41(d) *Where an application is made for consent to the development of a Management Lot within 8 years of the completion of the planting referred to in Condition 40, the applicant for such consent shall be required, prior to such a consent being granted, to satisfy the National Parks and Wildlife Service that the removal of any Queensland Blossom Bat foraging resource from that Management Lot will not unduly reduce the total productive inflorescences referred to in (c) above or that such removal may proceed notwithstanding any such reduction”*

Comment:

A report on the “Impact on Common Blossom Bat Habitat for Stage 2 Development” prepared by James Warren and Associates Pty Ltd dated September 1999, accompanied the stage 2, 3 and 4 applications. A copy of this report was sent to the NPWS for assessment and comment. In summary, NPWS approved the selective removal of habitat in Stages 2, 3 and 4 in accordance with condition 41(d), subject to further conditions, which were included in the consents for stages 2, 3 & 4, along with being relevant to the subject application. The subject application (stage 6) primarily incorporates the development of lands, which were previously subject to assessment under the stage 3 application. Accordingly, NPWS have advised Council that for the purposes of this application (stage 6), the provisions of condition 41(c) and (d) have been satisfied. A copy of this letter, dated 1 August 2000 is incorporated into this report.

“46. *Monitoring of the plantings in condition 40 shall occur every three months for the first year and thereafter at six monthly intervals unless otherwise agreed. A monitoring report shall be produced every six (6) months and shall make recommendations regarding any ongoing modifications to the Planting for the approval of the Director of Development Services based upon advice from the National Parks and Wildlife Service. These recommendations shall include the need to replace any unsuccessful plantings up to four years after initial planting and which may have been unsuccessful or destroyed. The NPWS and DDS reserve the right to inspect progress at any time.*

47. *No approval shall be granted for development of any Management Lots unless the monitoring reports referred to in Condition 46 are sufficient to satisfy the Director of Development Services based upon advice from the National Parks and Wildlife Services that the plants are maturing in accordance with the programme set out in*

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the Vegetation Management Plan. Each subsequent development application will detail the locations, timing and methodology of any further plantings proposed in accordance with Condition 42 above”.

Comment:

The applicant has submitted two (2) Monitoring Reports dated 15 September 1999 and 5 May 2000. Both of these reports were to the satisfaction of the NPWS.

In view of the NPWS comments in relation to Condition 41(d) and having regard to the recommended conditions arising from the NPWS letter of 16 May, 2000, 24 May, 2000 and 1 August 2000, the Director of Development Services is satisfied that conditions 46 and 47 have been complied with to a sufficient extent to enable the Stage 6 application to be determined.

“49. The applicant shall have prepared a Environmental Plan of Management by a suitably qualified person in conjunction with the Dept. of Land and Water Conservation and the Director of Development Services in respect of so much of Lot 500 as adjoins the Land that addresses any potential impacts on any threatened species, eg., oystercatchers, Little Terns and turtles, found using the beach and foredunes. This plan shall consider the exclusion of the public, domestic pets, feral animals, and four wheel drives from any detected nesting or roosting areas and the replanting of the dunes with suitable native vegetation including Banksias.”

Comment:

See comments for condition 35.

Deed of Agreement.

The terms of the Deed of Agreement for the Stage 1 consent, which affect the proposed Stage 6 application, are discussed below:

“2.2 Richtech shall execute a transfer to the Council of the Amelioration Land for the amount of \$1 within 28 days of the Consent becoming operational pursuant to the Act. The transfer shall not be registered by the Council and shall be held in escrow until the Amelioration Land has been dedicated to Council pursuant to the Section 94 Plan whereupon the said transfer shall be cancelled and returned to Lenen.”

Comment:

The amelioration land has not been transferred to Council, however this would not preclude determination of this application.

“2.7 Council shall not object to the closing and transfer to Lenen of any reserved roads within the Development Land which are rendered unnecessary by the Development, subject to alternative legal access being made available when any closing would sever public access to the beach or Lot 8. The Council will cooperate with Lenen in any application by Lenen to close the said roads.”

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Comment:

A Crown Public Road affects the subject land, however no lots are proposed over this area. Any future development application for subdivision on the Crown Road will require this road to be closed.

DESCRIPTION OF THE PROPOSAL

The subdivision application seeks development consent for the subdivision of the land at Casuarina Beach identified as management lots 5, 6, 7 and the 'Richtech' site. The proposal is to subdivide the land into 97 lots consisting of 93 residential lots, one (1) residue lot (proposed lot 113); and three (3) open space lots (proposed lots 170, 179 and 180).

CONSULTATION

This application was referred to the following Government Authorities.

1. National Parks and Wildlife Service (NPWS)
2. Department of Urban Affairs and Planning (DUAP)

A summary of the Government Authority submissions is provided below with comments where appropriate.

1. National Parks and Wildlife Service

The subject application was accompanied by a flora and fauna assessment in relation to the stage 6 proposal. This report, together with the application was sent to the NPWS for assessment and comment where relevant. NPWS provided Council with a formal response on 27 July 2000. The NPWS comments are provided below in summarised form, with comments provide where appropriate.

The NPWS identified concern over the removal of additional habitat for the Queensland Blossom Bat as a result of the proposed development and that no additional amelioration measures are proposed, over and above what was considered satisfactory for the stage 2, 3 and 4 consents. In this regard, NPWS suggested that the applicant and Council should consider appropriate amelioration measures, including the deferral of additional areas from development. NPWS also identified concerns in relation to the likely impacts of the proposal in relation to populations of Marine Turtles and Glossy Black Cockatoos and the provision of adequate east-west habitat connections. The letter also discussed the adequacy of proposed fire mitigation measures and the potential impact of the proposal in relation Cudgen Creek, neighbouring SEPP 14 areas, coastal erosion, aboriginal heritage and NPWS estate. The NPWS did not indicate that the application was considered satisfactory pursuant to the provisions of condition 41(c-d) of the stage 1 consent.

It is pertinent to note that the issues raised by NPWS in this letter, were done so in the belief that the proposed stage 5 and 6 developments were entirely separate from the stage 2, 3 and 4 developments.

Upon receipt of the above response, Council officers advised the NPWS that the proposed stage 5 and 6 developments were in fact located within those lands subject to assessment under the stage 3 and 4 applications, and that no further habitat disturbance is proposed other than what has already

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been agreed to pursuant to the stage 3 and 4 consents. In light of this, NPWS were invited to review their assessment of the stage 5 and 6 applications.

Council received a revised response from NPWS on 1 August 2000. This response is outlined in summary below:-

“The NPWS agrees that the boundaries of the proposed Stage 5 are contained within the boundaries of Stage 4 and that the boundaries of the proposed Stage 6 is, generally, within the boundary of Stage 3. The anomaly in the case of Stage 6 is that it is partially located on management lot 6, which is excluded from the Stage 3 development consent.

In view of the above, the NPWS will not be pursuing the deferral of any areas additional to those agreed at the meeting of 22 March 2000 and depicted in the accompanying attachment. In consideration of NPWS role under Condition 41(d) of the Stage 1 consent order please be advised that the Stage 5 DA is satisfactory and that the Stage 6a component of the Stage 6 DA is satisfactory. It is understood that Stage 6b has been withdrawn pending the finalisation of a survey of the boundaries of the deferred areas depicted in the attachment.

In correspondence dated 24 May 2000, NPWS recommended a variation to the consent conditions proposed for Stages 2, 3 & 4 to which Council generally agreed. It is recommended that these consent conditions also apply to Stages 5 & 6, thereby ensuring a consistent approach to the DAs that area lodged over lands covered by development consents for previous stages of the development.

Comment

Having regard to the above NPWS comments, it is now considered that Condition 41(d) of Consent S96/135 is satisfied subject to the imposition of the same conditions imposed upon the stage 2, 3 & 4 consents as outlined in the NPWS letter dated 1 August 2000. It is also considered that NPWS have no objection to the proposed development.

2. Department of Urban Affairs and Planning

The application proposes the subdivision of the land within the 7(f) zone to create a public road and public car parking spaces (75 spaces). Pursuant to Clause 27 of Tweed Local Environmental Plan 2000, the development requires the concurrence of the Director of DUAP.

DUAP provided Council with the following response on 3 August 2000:

“Concurrence has been granted, pursuant to clause 27(2) of Tweed LEP 2000, to development being car parking, roads, walkway / cycleway and infiltration ponds as described in Figure E24 of the Engineering Statement by Cardno MBK submitted with the application.

Concurrence is conditional upon there being no beach access for vehicles or pedestrians from either the carpark or from the public walkway / cycleway, unless such access is consistent with a management plan which covers the public foreshore areas and is agreed to by both Council and the Department of Land & Water Conservation”.

The above condition should be incorporated into any consent given.

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Comment:

The primary objectives of the 7(f) zone are as follows:-

- “(1) To identify lands susceptible to coastal erosion and protect them from inappropriate development;*
- (2) To protect and enhance the scenic and environmental values of the land”.*

It is considered that the proposed public road and parking facilities are generally consistent with the objectives of the zone. Given that the concurrence of the Director-General has been received and that no significant adverse impacts are considered likely to occur, approval of the application is recommended.

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FIGURE 1 – SITE DIAGRAM

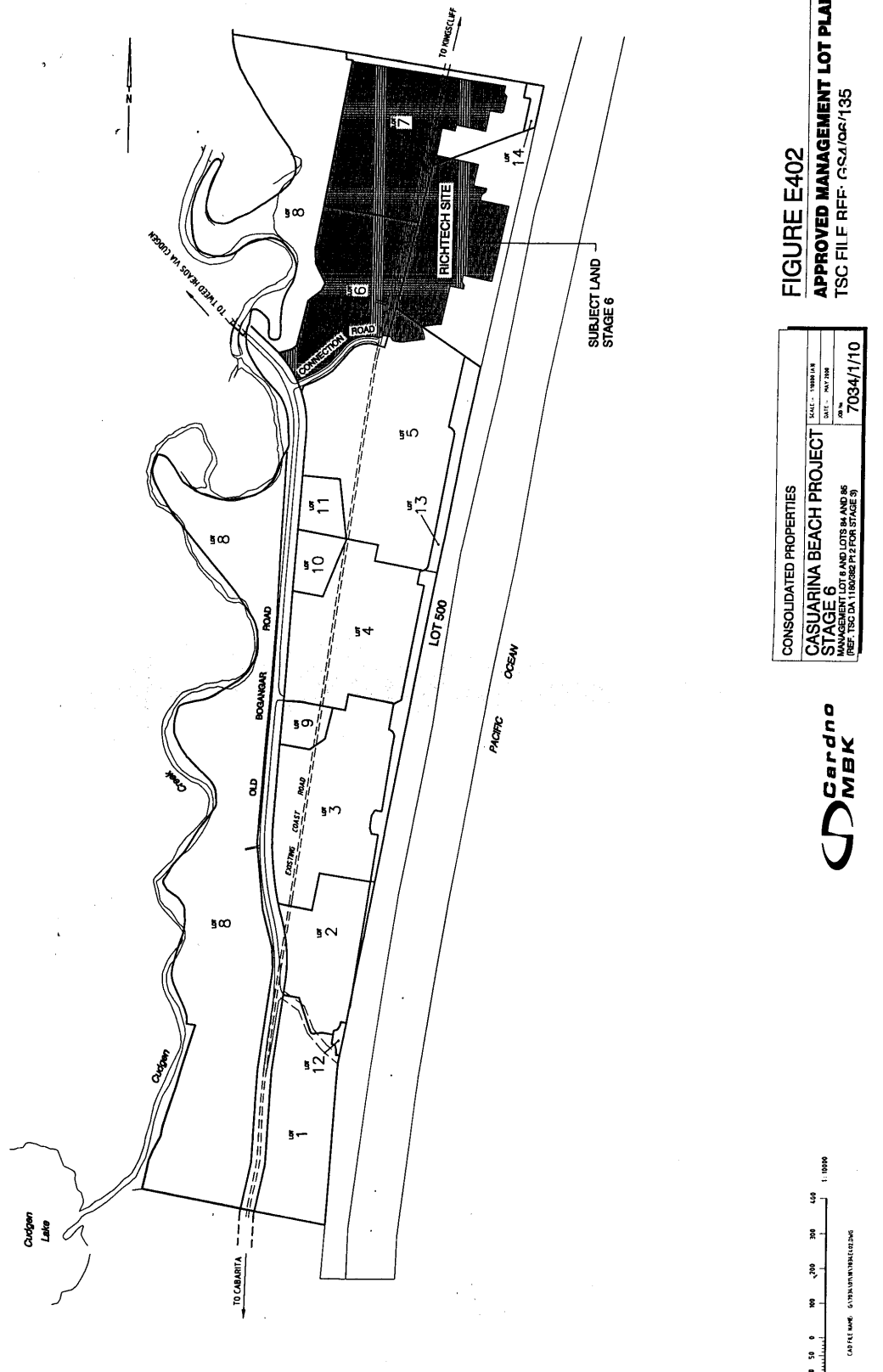
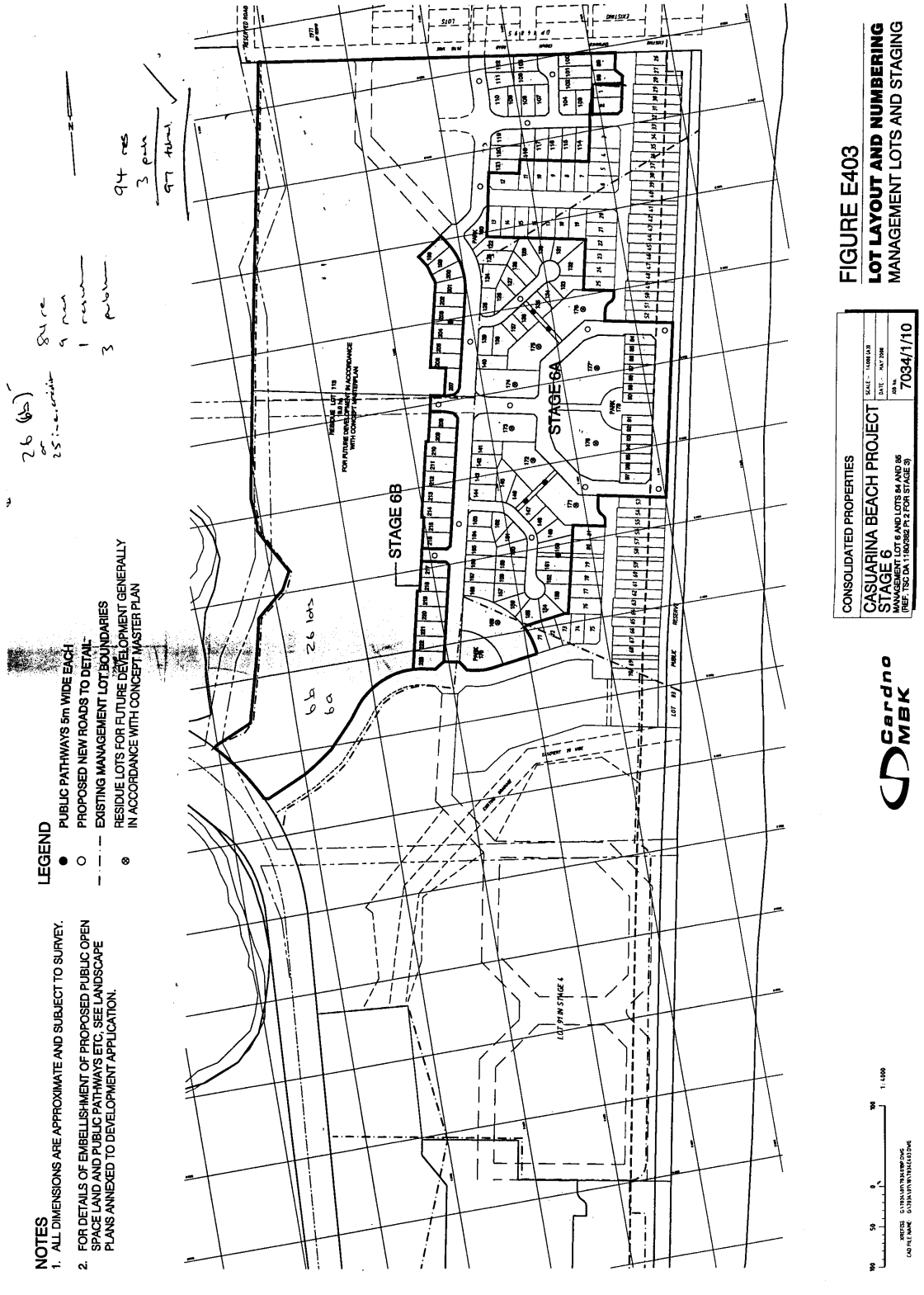


FIGURE E402
APPROVED MANAGEMENT LOT PLAN
TSC FILE REF: G.S.4/08/135



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FIGURE 2 – LOT LAYOUT



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EVALUATION

A complete assessment of the application against the matters for consideration under Section 79C(1) of the Environmental Planning & Assessment Act, 1979 is provided below.

(a) (i) **Planning Instruments**

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned Part 2(e) Residential (Tourist) and Part 7(f) Environmental Protection (Coastal lands). The proposed development is permissible with the consent of Council.

There are a number of clauses in TLEP 2000, which require consideration. These are discussed below.

Clause 17 - Social Impact Assessment

The objective of this clause is to ensure proper consideration of development that may have a significant, social or economic impact. In this instance, it is considered that this proposal will contribute to a significant social or economic impact.

This clause also provides that when Council considers that a development is likely to have a significant social or economic impact in the locality or Shire, as the case may be, the Council may only grant consent to the development if it has considered a social impact statement in respect of the proposed development.

A social impact statement has not been provided with this application.

The application indicates that the impacts of the proposed development have already been addressed as part of the development application that culminated in the Consent Order S96/135.

It is considered that a Social Impact Assessment is not necessary as this application is generally consistent with the Stage 1 consent and some positive economic and social impacts will result.

Clause 22 - Development near Designated Roads

The Coast Road is a designated road and the subject site has frontage to the Coast Road.

Clause 22(4) provides as follows:

“(1) The consent authority may grant consent to development on land to which this clause applies only if it is satisfied that:

- (a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*

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- (b) *the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*
- (c) *the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- (d) *where the land is in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*
- (e) *the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*
- (f) *the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*
- (g) *where practicable, access to the land is provided by a road other than the designated road, and*
- (h) *in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development:*
 - (i) *would not compromise the Highway's function as the North Coast's primary inter- and intra-regional road traffic route, and*
 - (ii) *would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and*
 - (iii) *would not compromise highway safety and efficiency, and*
 - (iv) *would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site."*

The application proposes only one access directly off the new Coast Road. The access point from the Coast Road was constructed as part of Stage 1 of the development.

Accordingly, it is considered that the proposal is acceptable in terms of traffic planning and the efficiency of the Coast Road. With the exception of proposed residue Lot 113, no residential lots are proposed adjacent to Coast Road. Further assessment will be required upon receipt of any future applications for development in relation to the proposed residue lot.

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Clause 27 - Development in Zone 7(f) Environmental Protection (Coastal Lands)

As discussed in the consultation section of this report, the application proposes the construction of a road and public parking spaces within 7(f) zoned land.

DUAP have granted concurrence and taking into account the applicant's submission and details on fencing and landscaping in the 7(f) zone and given that no buildings are proposed in this zone, it is considered that the proposal is satisfactory.

Clause 29 - Development adjacent to Zone 8(a) National Parks and Nature Reserves

The development site is not adjacent to any National Parks and Wildlife Reserves.

Clause 35 - Acid Sulfate Soils

The applicant has submitted an acid sulfate soil management plan, which is to the general satisfaction of Council's Environment and Community Services.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 15 - Wetlands and Fisheries Habitat

This clause provides that Council shall not consent to an application to carry out development within, adjoining or upstream of a coastal or inland wetland or fisheries habitat area or within a drainage catchment area of a wetland or fishery area unless it has considered the following matters:-

- a. the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;
- b. the need to conserve the existing amateur and commercial fisheries;
- c. any loss of habitat which will or is likely to be caused by the carrying out of the development;
- d. whether an adequate foreshore reserve is available and whether this is adequate public access to that reserve;
- e. whether development would result in pollution of the wetland or estuary and any measures to eliminate pollution;
- f. the proximity of aquatic reserves dedicated under the Fisheries Management Act, 1994 and the effect the development will have on the reserves;
- g. whether the quality is in an area of protected land as defined in Section 21AB of the Soil Conservation Act, 1938 and any measures to prevent soil erosion;
- h. the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved;
- i. the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in relation to the river, stream, wetland area or catchment.

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In regard to the above matters the following comments are provided:-

- (a)-(c) The application is supported by a water quality management and monitoring program, a erosion and sedimentation control plan and a acid sulfate soil management plan. These plans are satisfactory and should ensure that the quality of the water and habitat in and near Cudgen Creek is not significantly impacted upon.
- (d) There will be no affect on access to the foreshore of Cudgen Creek.
- (e) See comments in relation to (a-c) above.
- (f) There are no known aquatic reserves located in proximity to the site.
- (g) Cudgen Creek is not identified in the area of protected land.
- (h) The proposal will not result in the removal of vegetation along the water course.
- (i) There have been no recent environmental audits or water quality studies by the Department of Water Resources or Environment Protection Authority containing recommendations to the river, streams, wetland area or the catchment.

WBM Oceanics Australia prepared a Estuary Management Plan for Cudgen Creek on behalf of Tweed Shire Council, dated August 1997.

The Management Plan for Cudgen Creek has been prepared, taking into account habitat enhancement/conservation options, urban development, water quality, bank stability and opportunities for increased recreational usage of the Creek. The Management Plan is supported by technical analysis of specific issues, assessment of environmental benefits/debits and the need for further studies required to implement works. Additionally, priorities and costings to undertake the management actions described in the Management Plan are provided.

It is considered that the proposal is generally consistent with the principles of this plan.

Clause 29A(1) - Natural Areas and Water Catchment

This clause provides that Council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpments preservation zones unless it is satisfied that:-

- a. the wildlife habitat will not be significantly disturbed by the proposed development,
- b. the scenery will not be adversely affected by the proposed development, and
- c. an erosion and sedimentation control plan will be implemented which will successfully contain on the site any erosion and sediment caused by the development.

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As discussed, the proposed public road and parking spaces are partly located within the 7(f) zone. This is adjacent to the proposed foreshore cycleway/walkway, which passes through the 7(f) zone. In regard to the above matters, the following comments are provided:-

- a. It is considered that the proposal is unlikely to have a significant effect on threatened species and habitat in accordance with the submitted Section 5A assessment.
- b. It is unlikely that the scenery of the locality will be adversely affected by the proposal. The land in question will be subject to extensive landscaping and development restrictions.
- c. An erosion and sediment control plan accompanies the application and is satisfactory.

Clause 32B - Coastal Lands

The NSW Government Coastal Policy affects this application. See section titled NSW Coastal Policy 1997 of this report.

In general, the proposal will not impede public access to the foreshore. It is considered that adequate public access to the beach will be available following completion of the development.

Clause 33 - Coastal Hazard Areas

It is considered that the proposal is generally consistent with this clause. The Crown land (Lot 500) to the east of the subject site will be subject to a Management Plan, to be approved by Council and the Department of Land and Water Conservation. This land will be extensively rehabilitated with native species.

The application identifies a single access point (in vicinity of proposed parking area) across the foredune area, which will provide suitable public access from the site to the beach. However, this trail is not proposed as part of this application and will need separate approval from Council and the Department of Land and Water Conservation.

Clause 43 - Residential Development

This clause provides that Council shall not grant development consent for residential purposes unless,

- a. it is satisfied that the density of the dwellings have been maximised without adversely affecting environmental features of the land;
- b. it is satisfied that the proposed widths are not excessive for the function of the road;
- c. it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings, such as access to services and visible suitability of the land have been met;

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- d. it is satisfied that the road network has been designed so as to encourage the use of the public transport and minimise the use of private motor vehicles; and
- e. it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

The significant environmental constraints on the land were identified in the Stage 1 consent and subsequently significant amounts of land identified for public open space and environmental protection will and have already been dedicated for these purposes. However, the density of dwellings have not been maximised for this proposal and are not in accordance with the estimated population yields identified in DCP11 - Kings Beach. For more information on the population yields see the section on DCP11 - Kings Beach.

The proposed road hierarchy and public transport issues will be discussed later in this report.

No caravan parks are proposed and the sedimentation and erosion control plans accompanying the application is considered to be satisfactory.

Clause 66 - Adequacy of Community and Welfare Services

This issue was considered in the formulation of the Section 94 contributions plan applicable to the Kings Beach development. The staged provision of land/or contributions for provision and upgrading of community facilities is proposed, including community centre/multi-use hall, youth facilities, library facilities and health care facilities. Other local and subregional facilities are available at nearby Tweed Heads, Murwillumbah and Kingscliff including schools and hospitals.

Clause 81 - Development Adjacent to the Ocean or a Waterway

This clause provides that Council shall not consent to development on land within 100m of the ocean or any substantial waterway unless it is satisfied that:-

- a. there is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development;
- b. buildings to be erected as part of the development will not detract from the amenity of the waterway; and
- c. the development is consistent with the principles of any foreshore management plan applying to the area.

A 10m wide cycleway/walkway is proposed along the eastern boundary of the subject land running north/south. Adjacent to this path is a proposed public parking area and residential properties. To the east of the pathway is the Crown Reserve, which is proposed to provide for three (3) public trails providing access to the beach. This reserve will be fenced for conservation purposes.

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No buildings are proposed as part of this application. However, it is unlikely that any buildings will significantly detract from the amenity of the waterway taking into consideration the extent of the Crown Reserve between the development and the beach.

As previously discussed, the Dune Management Plan has been submitted and approved by both Council and the Department of Land & Water Conservation.

State Environmental Planning Policies (SEPPS)

SEPP11 - Traffic Generating Developments

In accordance with the provisions of this SEPP, the application was considered by the Local Traffic Committee. A summary of their comments is provided below.

“ A Development Application has been received for Stages 6a and 6b of the Casuarina Beach Development. The application proposes the creation of a 123 lot residential subdivision over two (2) stages. In accordance with the mandatory provisions of SEPP 11, Local Traffic Committee approval is sought regarding the above development application.

The Committee’s only concern was that provision be made in the design to enable the north south collector road to be aligned with the second most westerly road in Seaside City, as it is unlikely the westernmost road through Seaside City will be constructed due to environmental constraints.

Stage 6b has since been withdrawn. Suitable conditions have been included in relation to the above comments.

SEPP44 - Koala Habitat Protection

The applicant has provided Council with a SEPP44 assessment, which indicates that the subject site is of an unknown value as habitat for koalas. The subject site does not support any primary or secondary koala feed trees and is considered highly unlikely to provide koala habitat. A koala plan of management is not required.

ii. The Provisions of any Draft Environmental Planning Instrument

There are no relevant draft instruments.

iii. Any Development Control Plans (DCPs)

DCP11 - Kings Beach

This is the principal DCP to guide future development and management of the Kings Beach development site. The proposal involves land at the northern end of the site known as Management Lots 5, 6, 7 and the ‘Richtech’ site. The DCP provides specific provisions, which articulate the design and development principles underpinning the development plan which was a component of the negotiated settlement between Lenen Pty Ltd and Tweed Shire Council. Those that specifically relate to this application are discussed as follows.

Reports from Director Development Services

Clause 3.3 - Estimated Population Yields

The estimated population yields for management lots 5, 6 and 7 provided by the DCP are 2630 persons in total. The application is likely to provide for a population yield for lots 5, 6 and 7 at 245 persons only, which is well below those figures in the DCP. This estimate of 245 persons is based on the number of proposed residential lots (including those identified for future medium – high density development). The ‘Richtech’ land (Lot 1 DP 811425), and those lots identified in this area have also been included in this estimate.

The estimated population yields are based on 2.6 persons per dwelling in accordance with Section 94 Plan No. 19 - Kings Beach/Kings Forest.

As this proposal is part of a staged development over the entire Kings Beach site, it is possible that the total population yields may be achievable when the remainder of the site is developed and subsequent applications submitted. Having regard to the latter, the proposal incorporates the creation of a 19ha deferred area and a further nine (9) larger lots suitable for medium to high-density developments. Future applications relevant to these lots will need to be assessed in accordance with the population yields in the DCP.

It should also be noted that both management lots 5 & 6 were also subject to assessment under the stage 3 consent and therefore the ‘total’ population yield for these lots is greater than that shown for this stage alone.

Should the population yields not be achievable then the DCP and the Section 94 Plan will need to be amended to reflect the expected population yields in the event that Council gives approval to this application.

Given that the population yields in the Stage 1 consent are somewhat arbitrary, it is considered that the reduced yields are acceptable, subject to formal amendment of the DCP and Section 94 Plan to reflect the changes and to include the ‘Richtech’ site.

Clause 3.5 - Urban Design Principles

1. The east/west cycleway/footpath linkages are is considered to be satisfactory in relation to the development master plan.
6. This provides that approximately 500 public car parking spaces are to be provided within the Kings Beach site. The concept master plan for the whole site appears to provide for about 550 spaces. The proposal incorporates 75 spaces solely for public use. Accordingly, the proposal is supported in this regard.
8. The proposed public access points are less than 400m apart and are therefore inconsistent with the 400m separation requirement as per the DCP.

However, these public accesses do not form part of this application. A separate application under Part V will need to be submitted for their approval/construction.

13. The DCP provides that local parks shall be provided as part of the development of the management lots and that a minimum of 2000m² of useable recreation area

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and be not more than 250m from any dwelling and have public road frontage for a minimum of 50% of the perimeter frontage of the local park.

The proposal incorporates the provision of three (3) parks. Each of the proposed parks is generally consistent with the provisions of the DCP, with the exception of the minimum required size. DCP No. 11 requires each park to be of a minimum 2000m² in area. Whilst the proposed central park (proposed lot 179) is considered satisfactory, each of the remaining parks (proposed lots 170 & 180) are smaller than that required. Given that the proposed parks are only marginally smaller than that required and are generally consistent in all other aspects, this provision is considered to be satisfied.

14. This provides that all nodes of retail and commercial activity with integral public open space and community facility provisions shall generally be within 400m of any dwelling within the development. No commercial or retail allotments are proposed in this stage.
15. This generally provides that acoustic fencing and landscaping is to be provided to the east of the new Coast Road. A small section of proposed lot 119 (residue lot) has direct frontage to the new Coast Road. Whilst no acoustical details have been submitted at this time, it is considered that these details should be provided upon further application/s being received by Council for development of this lot.
18. There will no direct vehicular access from the relocated Coast Road other than via approved intersections.

The proposal provides one access and is consistent with this provision, as discussed earlier.

23 & 24

A water quality management and monitoring program has been submitted with the application and is considered to be satisfactory.

26. It will be a condition of any consent that all existing Bitou bush plants be removed and the disturbed areas appropriately treated to prevent dust nuisance and soil erosion.
31. An acid sulfate soil management plan has been submitted and is generally satisfactory and any consent will be conditioned appropriately.

NSW Coastal Policy 1997

The DCP also takes into consideration the NSW Coastal Policy 1997. It is considered that the proposal is generally consistent with the relevant objectives of this Plan. The policy generally provides that development needs to take into consideration a number of objectives, which attempt to protect the natural environment. The specific objectives of the policy which relate to this development are summarised as follows:-

- * Identify conservation values of land and aquatic environments;
- * Improve and maintain water quality;

Reports from Director Development Services

- * Manage coastline and estuarine environments for public interest and ensure their vitality;
- * Impacts of natural processes of a high priority;
- * Design development to compliment surrounding development;
- * Increase public access to foreshores.

All the above objectives have generally been discussed throughout this report and it is considered that the development is unlikely to create any significant adverse environmental impacts on the coastal environment.

DCP16 - Subdivision Manual

The proposal is generally consistent with the various standards of this plan.

DCP39 - Energy Smart Homes Policy

This plan was adopted on 7 April 2000 and came into effect on 10 April 2000 and subsequently requires consideration.

This DCP has been developed in response to the growing community desire to achieve greater energy efficiency in the domestic environment. This community concern stems from a general concern about greenhouse gasses generated by energy use, their effect on the environment and in particular, their contribution to global warming. The DCP shows how energy efficiency can be achieved in all new residential subdivisions and buildings, including alterations and additions to existing buildings. It includes design alternatives - such as passive solar design and solar water heating - that will dramatically reduce the demand for non renewable energy, thus reducing both costs and air pollution and reducing the level of comfort in the average Australian home.

Section 4.0 of this Plan specifically relates to subdivisions and provides preferred outcomes for the following:-

- * Street orientation;
- * Lot orientation, size and shape;
- * Access;
- * Public transport;
- * Setbacks; and
- * Street lighting

A solar proficient subdivision will ensure that the overall development is significantly more energy efficient than a conventional subdivision.

1. Street orientation

- * Align streets east/west and north/south wherever possible

Reports from Director Development Services

- * North/south streets should be within 20 degrees west and 30 degrees east of true north
- * East/west streets should be within 30 degrees south and 20 degrees north true east

In this regard the majority of streets proposed are either aligned north/south or east/west and are consistent with this outcome.

2. *Lot orientation, size and shape*

- * Lots should be orientated so that one axis is within 30 degrees east and 20 degrees west of the true solar north
- * North facing slopes improve opportunities for solar access, small lots are therefore best suited to north facing slopes with gradients of less than 15%
- * South facing slopes impose a penalty on solar access, therefore, large lots/lowest densities are best suited to north to south facing slopes or other areas where solar access is poor
- * The north side of east/west aligned streets is suitable for narrow lots
- * Lots aligned on an east/west axis generally need to be wider than lots aligned on a north/south axis to prevent undue shadow effects on lots to the south
- * Where streets are within the acceptable orientation range, use rectangular shaped lots
- * Sloping sites are not suitable as flat sites for smaller lots

The land is relatively flat and following earthworks it is considered that the topography of the land won't significantly change. Accordingly, the issue of north and south facing slopes is not a significant issue in this instance.

All lots on the northern side of the streets are relatively narrow and should comply in this regard.

The lots on the east/west axis are narrower than those lots aligned on a north/south axis. Accordingly, this is not consistent with the DCP and could have undue shadow effects on the beachfront lots.

3. *Access*

- * Footpaths are designed to access public transport routes
- * Subdivision design includes, clearly marked bicycle network, marked kerbside bike lanes, dedicated cycleways and links to regional cycleways
- * Subdivision design should maximise the ability to travel directly between any given destination and origin

Reports from Director Development Services

4. *Public Transport*

- * Subdivision design should allow for circuitous public transport routes that maximise the number of lots within a short walking distance to potential transport routes
- * Suitable areas for bus stops and lay back areas should be identified
- * Long cul-de-sacs should be avoided as these reduce accessibility to public transport

It is considered that the proposal is generally consistent with the access and public transport principles identified above.

5. *Setbacks*

- * Variable setbacks and zero lot lines are the means of maximising solar opportunities, especially with small or narrow lots. Setbacks are manipulated to maximise solar access for all lots.
- * Preferred setback lines can be shown on subdivision plans to help builders, designers and home buyers make the best use of solar energy.

The Architectural Design Regulations (to be discussed later in this report) provide some variations to the front setbacks.

Section 94 Contribution Plans

Section 94 Contribution Plan No. 19 - Kings Beach/Kings Forest presents a strategy for the provision of structured and unstructured open space and community facilities. Those sections of the plan that specifically relate to this development are discussed as follows.

5.0 Expected Population

This plan indicates that the expected population of Kings Beach is 5600 persons, with 3000 permanent residents and 2600 tourists.

As discussed in Section (iii) titled Development Control Plans of this report, it is unlikely that the population yields will be achieved for this proposal. The DCP and Section 94 Plan will need to be amended to reflect this and to include the Richtech land.

The occupancy rates and the population yield for Stage 3 are not consistent with those in the Section 94 Plan.

7.0 Timing of Contributions

Credit

Approximately 5.5ha of active open space has been dedicated as part of the Stage 1 consent being management lots 9 and 10.

Reports from Director Development Services

However, as discussed in 5.0 above the population yields identified in the table for management lots 1 and 2 have not been achieved by this application. Accordingly, this could have implications on the provision of the active open space credits within each of the management lots. Subsequently, the Section 94 Plan and the DCP for this site will need to be amended to reflect the current figures.

14.0 Open Space

Structured Open Space

The developer has dedicated a total of 5.5ha of structured open space at no cost to Council in conjunction with the Stage 1 consent (management lots 9 and 10). These lots are not within the land subject to this application.

The amount of structured open space dedicated (5.5ha) has been calculated on the population yields provided by the DCP. Any variations to those yields, which is the case for this proposal, may have implications on the amount of structured open space to be provided. Accordingly, the DCP and Section 94 Plan will need amending to reflect this.

At the moment the population yields provided by the applicant are below those provided by the DCP. Accordingly, this proposal does not require any additional structured open space above the 5.5ha.

A monetary contribution would be required for the embellishment of the structured open space.

Passive Open Space

The developer has dedicated lots 12, 13 and 14 as public open space in conjunction with the Stage 1 consent. These lots together with the proposed parks for this application are to be suitably embellished by the developer.

Public open space needs to be provided in accordance with the Section 94 Plan for the site. In respect of the casual open space, the Section 94 Plan requires that a minimum area be 2000m² and not be more than 250m from any residential dwelling and each parks perimeter should have at least 50% frontage to a public road. As discussed earlier it is considered that the development is generally consistent with this.

Again, as discussed above for the structured open space the estimated population yields for Lots 5 and 7 are unlikely to be achieved and subsequently this may have implications on the provisions of casual open space. However, the yields provided in the application are below those provided by the DCP and the proposal is unlikely to require any additional casual open space above that already provided or required by the Section 94 Plan. However, the addition of the Richtech land may have implications on this or the DCP and Section 94 Plan may need to be amended to reflect this.

15.0 Cycleways

The proposal is considered to be generally consistent with the Section 94 Plan.

Reports from Director Development Services

Section 94 contributions will be applicable.

16.0 Community Facilities

Contributions will apply for the provisions of the following facilities:-

- * community centre/multi-use hall
- * youth facilities
- * library facilities
- * healthcare facilities

The works program in the Section 94 Plan indicates the appropriate threshold at which to provide the facilities. Special factors may arise requiring provision of a facility before the stage threshold is reached.

The community facilities are likely to be located within the town centres/commercial/retail areas for convenience. In addition, the Concept Master Plan indicates that the Surf Life Saving Club site will be located in Stage 3, proposed residue Lot 91. To secure the site it is proposed that any consent will be appropriately conditioned to provide that any future development application for further subdivision within Stage 3 will need to provide a lot for the purpose of a Surf Life Saving Club. This lot will be dedicated, at no cost, and credit given for Section 94 contributions.

(b) The Likely Impacts of the Development

Environmental Impacts

The proposal is unlikely to create any significant adverse environmental impacts on the locality. The applicant has submitted a sedimentation and erosion control management plan to control and minimise the pollution caused by soil erosion on downstream waterways during the construction project. This plan has been reviewed by Council's Subdivisions and Environment & Health Services Units and is considered generally satisfactory.

The applicant has also submitted a water quality management and monitoring program. This plan is also considered to be satisfactory.

These plans and the acid sulfate soil management plan should ensure that the quality of the water at Cudgen Creek is not adversely impacted upon.

The development of the Kings Beach site will inevitably have some impact on the environment. What Council needs to consider is what is an acceptable impact given the history of the site. To reduce these impacts a number of management plans and reports have been prepared. These have helped to achieve a subdivision design, likely to minimise the impact of the proposal on the environment from construction to completion. These reports and management plans will be incorporated into any consent, where appropriate.

Reports from Director Development Services

A flora and fauna assessment report accompanied the application. The conclusion of the report, prepared by Gunninah Environmental Consultants is as follows:-

“Stage 6 of the Casuarina Beach development project involves the clearing and development of 34.04ha of previously mined land within the Casuarina Beach Project site. Stage 6 is located between the re-aligned Old Bogangar Road and frontal dune on Kings (Bogangar) Beach, and is characterised by a largely non-indigenous vegetation consisting of regrowth and mine rehabilitation communities.

Vegetation on the subject site is not of intrinsic conservation value or significance, and no threatened plant species are present on the site or would be likely to occur, other than as individual specimens (if at all). No “endangered ecological communities” are present on the Casuarina Beach Project site.

For most of the threatened fauna species known to occur either on the subject site or in the general locality, the proposed development (both of Stage 6 and of the whole Casuarina Beach Project) is of little consequence or significance. The subject site does not support relevant or critical habitat or resources for most of the threatened fauna species known to occur in the vicinity, and there are extensive other areas of more suitable habitat and resources in the locality. Furthermore, most of the threatened fauna species recorded in the locality are likely to occur on the site only as individuals or vagrants, and none are regarded as likely to be dependent upon the resources habitat features present on the site.

One threatened fauna species (the Common Blossom Bat) does utilise the site to a moderate extent, for winter foraging (on the Coast Banksias present on the site). Whilst complete development of the subject site will involve the removal of most of the Coast Banksia resource present upon it, the loss of resources is not regarded as of critical or “significant” import because of the substantial supplementary planting program which has been undertaken, because of the extent of other suitable resources in the vicinity and locality, and because of the long-term retention of resources on the site (west of the Old Bogangar Road). Additionally, two portions of the development area (totalling 31.8ha or 27.7%) are to be ‘deferred’ to provide Coast Banksia foraging resources for this species in the short-term while the new plantings of Coast Banksia mature.

Similarly, notwithstanding the occasional presence of individuals of a number of other threatened fauna species on the subject site or adjacent to it (including Glossy Black Cockatoos, the Common Planigale, Great Knot, Osprey, Green Turtle, Black Flying Fox and sever microchiropteran bats) and the potential occurrence on occasions of a number of other threatened species on the site or its immediate vicinity (particularly estuarine, wading or pelagic birds), neither the area proposed for development activities nor other adjacent lands (including Kings Beach), provide ‘significant’ resources for any such species.

Reports from Director Development Services

Consequently, whilst individuals of some threatened species may potentially be disturbed as a result of the development and occupation of the subject site, and increased human activities within Cudgen Creek and along Kings (Bogangar) Beach, it is not “likely” that “a significant effect” would be imposed upon any such species “or their habitats” as a result of the Casuarina Beach Project.

In the absence of any evidence or assessment that the proposed Casuarina Beach Project is “likely” to impose “a significant effect” on any “threatened species, populations or ecological communities, or their habitats”, there is no requirement for the preparation of a Species Impact Statement for Stage 6 of the Casuarina Beach Project, or for the project in total.

Impact amelioration and environmental management measures (including dedication of 52ha of land on the western (Cudgen Creek) side of the subject site, protection and management of the frontal dune and dune vegetation east of the site, and an array of measures to protect the natural environment and to provide supplementary resources for native fauna within the development) are incorporated into the Casuarina Beach Project, thus limiting the potential for significant adverse impacts to be imposed upon the natural environment”.

Comment

Section 78(8)(b) of the Environmental Planning & Assessment Act, 1979 is as follows:-

“78(8) A development application must be accompanied by:

- (b) *if the application is in respect of development on land that is, or is a part of, critical habitat or is likely to significantly affect threatened species, populations, or ecological communities, or their habitats - a species impact statement prepared in accordance with Division 2 of Part 6 of the Threatened Species Conservation Act 1995”.*

The Species Impact Statement accompanying the development application S96/135 for Stage 1 applied to the whole of the Kings Beach site. Subsequently, advice was sought from the NPWS and Council’s Solicitors as to whether or not the Stage 3 development application and subsequent applications will need to be accompanied by a Species Impact Statement.

Council’s Solicitors advised that Council may well have already complied with the Environmental Planning & Assessment Act, 1979 in that a SIS has already been provided for the whole site and has been assessed by the Council in great detail. Accordingly, a further study would not be required.

The NPWS have advised that any decision regarding the significance of impacts in subsequent stages on threatened species, and hence the need for a SIS, must be made by the consent authority.

Reports from Director Development Services

Section 5A of the Environmental Planning & Assessment Act, 1979 provides 8 factors which must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

The Flora and Fauna report provides this Section 5A assessment and concludes that the development is not likely to have a significant effect on threatened species, populations or ecological communities, or their habitats.

Taking into consideration the advice from Council's Solicitors, the NPWS and relevant reports, it is considered that the development is unlikely to have a significant effect on threatened species, populations, or ecological communities, or their habitats and an SIS is not required.

Effect on Landscape/Scenic Quality of the Locality

A proposal of this scale and in this location will undoubtedly have an effect on the landscape and scenic quality of the locality by transforming the coastal landscape into an urban one. The likely impacts of the latter are considered acceptable given the history and zonings of the site and the commitment given by the LEP amendment and the DCP for residential development in this location.

Earthworks will modify the topography of the land, but not significantly.

The applicant has submitted a typical streetscape concept, which is considered satisfactory.

The visual impacts will be reduced by buffering and landscaping in appropriate areas.

The development will be consistent with the general character of new residential estates.

Access, Transport and Traffic

Council's Engineering Services Division, Subdivision Engineer and the Local Traffic Advisory Committee have reviewed the application in relation to traffic, access and road layout issues. The comments made by the Local Traffic Committee, which are outlined in this report, will be incorporated, where necessary, into the design of the proposal to improve the layout.

Council's Subdivision Engineer has undertaken an assessment of the proposal in relation to access, traffic and transport issues. This assessment is summarised as follows:-

“Generally the road layout and pavement widths shall be in accordance with figures E408, E423 & E423A with the exception of the following matters:

- *Connectivity between road 6 and the crown reserve is required.*
- *Connectivity between road 2, 11 and 4 is required.*
- *The road reserve and pavement width for road 13 should be increased to 20.0m and 9.0m respectively in the event that road 13 becomes permanent.*

Reports from Director Development Services

In relation to the provision of concrete footpaths it appears that the application does not satisfactorily address this issue. Figures E423 and 423A do not indicate the location of any proposed concrete footpaths. A condition will be required on the development consent that clearly identifies which roads require concrete footpaths.

The construction of roundabouts in accordance with Austroads part 6 – Roundabouts will be required at the following intersections:-

- *Road 1 and Road 7 (Coast road and Connection road)*
- *Road 10 and Road 7*
- *Road 3 and Road 5*

The future ultimate alignment of the Coast road still remains unresolved on the basis of details submitted by the applicant. Given the strategic importance of this road link, it is considered that the Coast Road should be required to connect with Catherine Street (Seaside City) as a condition of this consent.

The applicants have addressed the impacts of the Coast Road due to a level difference along the northern boundary of the site created by the filling of stage 6. They propose to grade fill into the land to the north of stage 6 to provide a suitable vertical alignment for the Coast Road.

Suitable conditions of consent have been imposed in accordance with the above comments.

Character, Location, Siting, Design and External Appearance, Size and Shape of the Land etc

This development although similar in some ways in character to other residential estates, is a unique development on the Tweed given its close proximity to the Coast. Subsequently, the proposal has attempted to optimise its proximity to the Coast creating a unique estate.

One other issue is the width and depth to frontage ratio of the narrower proposed allotments. These lots generally have a width of 12m with a depth of approximately 40m. There were initial concerns that difficulties would arise in designing and siting a complying dwelling on the lots given that they have a 12m frontage and normal side boundary setbacks are 900mm and also that having such narrow lots may create design and siting problems to allow consistency with Council's DCP39 - Energy Smart Homes Policy. As discussed in the section titled DCP39 - Energy Smart Homes Policy, the lots on the east/west axis (beachfront lots) are narrower than those lots aligned on a north/south axis and this is not consistent with the DCP and could have undue shadow effects on the beachfront lots.

As per the Stage 2, 3 & 4 applications, the applicant has provided plans showing that dwellings can be satisfactorily accommodated on beachfront lots. These plans indicate

Reports from Director Development Services

that a dwelling can be satisfactorily sited on the narrower allotments with a side setback of 900mm to the eaves and maximum site coverage of 50%.

In view of the detailed controls proposed in the Architectural Design Regulations (ie. setbacks, site coverage, building envelope), which are to be enforced by the Architectural Review Committee and the additional information supplied, as discussed above, it is considered that a dwelling is likely to be sited on these narrower lots.

Subsequently, any dwelling erected on a beachfront lot will need to comply with the Architectural Design Regulations and relevant Council guidelines.

Architectural Design Regulations

In order to ensure that the development is unique, the applicants have prepared *Architectural Design Regulations* (ADR) for Kings Beach. These ADR's are intended to encourage the design of the houses to reflect particular informal character, openness and individuality appropriate to the beach community.

The ADR provide that all building works, (including external construction, alterations, additions, repairs, including painting and repainting, construction and alterations to any fence, retaining walls, exterior lighting, driveways and landscape and tree planting) will need to comply with the ADR and will also require approval from an Architectural Review Committee (ARC). The ARC will include those persons appointed by the applicant, and will more than likely consist of architects etc. Approval from the ARC for any building works must be obtained before applying to Council for approval. The ADR also proposes that Council will be party to assist in enforcing the ADR.

Council's Building Unit has reviewed the proposed ADR's and consider that Council should not be party to the enforcement of this complex design regulations, and that Council should only process new dwelling development applications and construction certificate applications that have been endorsed by the ARC. In addition, any endorsement or approval by ARC is not to substitute for or guarantee development approval from Tweed Shire Council.

Subdivision Engineer Comments

Council's Subdivision Engineer has assessed the proposal and provided the following comments in response:-

“1.0 Introduction

The proposal is to develop stage 6 of the Casuarina Beach development incorporating 97 allotments.

2.0 Earthworks

The applicants initially proposed the construction of a retaining wall (2.0m to 2.5m high) along the northern boundary of the subject site adjacent to the unformed Crown road reserve. The construction of a retaining wall along this boundary would have resulted in a retaining wall of approximately 2.0m in height at the end of road No. 3 and 2.5m at the end of road No. 6.

Reports from Director Development Services

A retaining wall of this height is considered unsatisfactory for the following reasons:

- *Impacts on the continuity of the existing coast road.*
- *No consideration has been given to future construction of the Crown road and the potential impacts on the adjacent Seaside land.*
- *No consideration has been given to the likely impacts for any future realignment of the coast road.(ie road 13)*

Following discussions with Council officers, the applicants have provided amended bulk earthworks details, which allow for the continuation of the fill within stage 6 into the Crown road reserve and the privately owned property to the north (Seaside City). This amended filling program ensures that the maximum height of the retaining wall along the northern boundary of stage 6 will be limited to approximately 500mm. Furthermore, the continuity of the coast road shall be maintained because the filling program will provide for a satisfactory transition from stage 6 into the adjacent Seaside City.

The applicants have advised that the bulk earthwork balance quantity required for this development is approximately 230,000m³. Level 1 testing and supervision under AS 3798 – 1996 will be required for the earthworks program.

Given the general site soil characteristics it is considered that geotechnical constraints should be minimal and therefore not an impediment to the development of the land.

3.0. Sedimentation and Erosion Control

No detailed sedimentation and erosion control management plan specific to this stage could be found in the submission. The applicants have provided figure E427 “Soil and Water Management Plan. Unfortunately this figure does not address key issues relevant to sound water quality management for this site.

Given existing site conditions, such as topography and soil type it is considered that a sedimentation and erosion control plan prepared in accordance with the “Tweed Urban Stormwater Quality Management Plan” should ensure satisfactory water quality for the development.

4.0 Water Quality

The above comments in 3.0 – sedimentation and erosion control are also relevant.

The applicants advise that they will implement the following control measures:

- *Temporary sedimentation traps to be installed during construction and revegetation phases.*

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- *Small scale sediment traps and/or trash racks to be installed on stormwater outlets.*
- *Water quality infiltration basins will be further created along the northern perimeter of the site between the stormwater outlets and Cudgen Creek*
- *Installation and maintenance of temporary erosion control devices to minimise the removal of fines and sediments from the disturbed site.*
- *On site infiltration pits for roof stormwater disposal.*

Figure E427 “Soil and water management plan” requires further detail before it is considered to be satisfactory. Figure E424 identifies the locations for the infiltration ponds, which are designed to remove sediments and nutrients prior to discharge to Cudgen Creek. The location of these ponds was approved under stage 3.

The installation of the above measures and the construction of the infiltration ponds will have a positive effect on the quality of the water discharged to Cudgen Creek.

5.0 Drainage

The majority of stage 6 drains in an easterly direction to the north south open channel and is then discharged in a westerly direction to Cudgen Creek. This drainage system was approved under the stage 1 development consent and subsequently refined with stages 2,3 & 4.

6.0 Water Supply

Figure E421 shows the recently constructed 450mm diameter and 250mm diameter water mains constructed under the stage one (1) development consent. These trunk water mains will provide adequate supply for the stage 6 development.

The existing 250dia. water main north of the Connection Road shall be relocated to an alignment as shown on Figure E422. The water main shall also be wholly located within the public road reserve.

The internal reticulation for stage 6 has been shown on Figure E422 and is considered satisfactory subject to the applicants submitting a detailed demand analysis for the proposed system, which clearly shows that peak demand and fire fighting requirements can be satisfied.

7.0 Sewer

The applicants advise that the site can be serviced by a vacuum and rising main sewerage reticulation system. They also advise that Council has agreed to the Vacuum Sewerage System in principal. This statement is true, however the applicants have been requested by Council to provide a Sewerage

Reports from Director Development Services

Management Plan for the vacuum system, which addresses the whole of life cost implications for the vacuum system.

To date this management plan has not been submitted to Council. Furthermore, the applicants for stage 1 have disregarded the vacuum system and chosen to bond uncompleted works for a conventional sewerage system.

To facilitate the determination of the stage 6 development consent a condition similar to that included in the stage 2, 3 & 4 consents could be incorporated in the consent conditions.

Conclusion

Generally the proposal for stage 6 is satisfactory subject to the resolution of those matters listed below:

1. Investigation of the ultimate alignment for the Coast road
2. Submission of a detailed Soil and Water Management plan

Engineering Services Division Comments

Infrastructure Engineer's Comments

“1.0. Introduction.

The land is characterised by a ridge in the south of Stage 6, which generally follows the line of the Coast Rd, but deviates to the west of the coast Road in the northern section of Stage 6, forming a local high feature of RL 12m.

It is proposed to alter this landform by swinging the ridgeline to the east of the current Coast Rd line in the northern section of Stage 6 and reforming the land to slope evenly to the east and west of the new ridgeline. The highest land will be along the ridge at RL 10m. The existing local high feature at RL 12m will be removed. It is also proposed to fill the northern part of the site so that along the northern boundary with an unnamed crown reserve road there will be a height difference of 2m to 3m. The proponents advise this level difference will be resolved by use of vertical retaining walls. This is not a desirable outcome and conditions will be recommended to soften this boundary level difference. Drainage is to be collected in internal subdivision roads by conventional underground drainage.

2.0. Site Drainage

This application incorporates a report from Cardno MBK “Kings Beach Development – Proposed Stormwater Treatment & Disposal Incorporating The Alternative System” this report in general terms proposed (section 2.2) the following:

- *infiltration of roof runoff*
- *discharge of road drainage through catch basins*

Reports from Director Development Services

- *further treatment of road runoff by grass swales*
- *final treatment by infiltration basins*

Since the submission of the application there have been many meetings between the developers representatives and Council officers regarding drainage and water quality issues. Many amendments to the original plans have been submitted and at the time of writing this report still further reports on hydraulic analysis and infiltration basin sizing/location/design are awaited from the applicant's consultants (Cardno MBK).

Cardno MBK letter 21/2/200 contained Attachment B "Water Quality Management and Monitoring Program". This letter contained proposals for water quality management in the operational phase, water quality objectives, sampling and monitoring program, erosion and sediment control plan. For the operational phase it proposed a treatment train consisting of:

- *Disposal of roof water drainage by on-site infiltration for individual properties*
- *Collection of sediment and gross pollutants via catch pits*
- *Installation of Humeceptors at locations where oils and greases may be generated*
- *Transport of stormwater runoff by grassed swales and vegetated strips*
- *Screening of outlets to infiltration basins to capture gross pollutants*
- *Disposal of 3 month ARI stormwater flows by infiltration in specifically designed basins*

Conditions will be recommended to incorporate the above stormwater quality management principles and the provisions of Council's "Stormwater Quality Management Plan".

3.0. Lawful Point of Discharge

This DA is for subdivision of Kings Beach Stage 1 (S96/135) Management Lot 6 and lots 84 and 85 created by Casuarina Beach Stage 3 (DAK99/1733).

The proposed point of discharge for east flowing runoff is Controlled Outlet 11. This proposed point of discharge at Controlled Outlet No. 11 is satisfactory and was anticipated in the Stage 1 approval. Stormwater passing through Outlet 11 will discharge by overland sheet flow across passive open space lot 8 to Cudgen Creek. East flowing stormwater from this application must traverse Stage 3 and proposed open space Management Lot 11 to drain to Controlled Outlet No. 11. Easements/reserves across all intervening land will be required for continuity of drainage paths to the outlet.

Reports from Director Development Services

4.0. Proposed Drainage System

Drainage Layout

It is understood that roof water from dwellings will be infiltrated on each individual allotment, which will reduce the volume of stormwater runoff to the public drainage system.

The proposed subdivision lots front roads Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and temporary Road 13. These roads are provided with conventional underground drainage.

East Flowing Catchment.

East flowing Q5 road drainage is to be piped either directly or via the stage 3 drainage scheme to a south flowing coastal swale drain. Q100 overland flows will be conveyed along the road and path system to the coastal drain. Depending on the final grading of land along the northern boundary and roads 3 and 6, some Q100 overland flow may flow to the north to the unformed crown reserve road.

Runoff (up to Q100) is to be conveyed in a southerly direction along a the coastal swale drainage/infiltration system proposed in stage 3. (This is a proposed dual use area also containing walkway/cycleway and public open space/landscaping. This proposal is satisfactory from a drainage perspective, but, other units will need to determine its suitability for and compatibility with the other proposed uses). The coastal swale drain proceeds south to the south east corner of proposed stage 3 lot 82, junctions with another coastal swale drain from the opposite direction heading north, and turns west through proposed (dual use) open space areas, and proposed open space Management Lot 11, to Controlled Outlet No. 11. The applicants plan Cardno MBK Figure E222 Rev B "Drainage Path, Cycleways and Infiltration Ponds" shows schematic layouts of infiltration basins in the coastal swale drain and in the future proposed open space area in proposed stage 3 residue lot No. 91.

5.0. Drainage System Capacity

Cardno MBK Figure E417 contains a long section of the eastern trunk drain. There are no finished surface cross sections submitted with this application, finished surface cross sections submitted with stage 3 (Figure E211 REV A) only provide cross sections of the coastal drain at 2400m and 3200m and miss the drain between 2425m and 3294m. However when natural surface levels to the east (coast) side of drain are plotted on the long section it indicates that the Q₁₀₀ water surface profile will be up to 1.5m higher than these natural levels. This implies that a bund wall of significant height will be required on the coast side of the drain to contain the runoff with standard 300mm freeboard.

Conditions will be required to ensure adequate freeboard on the coastal side of the drain.

Reports from Director Development Services

6.0. Dual Use Issues

The applicants consultant Cardno MBK has submitted "Consolidated Properties Pty Ltd, Casuarina Beach, Infiltration Basin Analysis, March 2000" to supplement information submitted with the stage 2, 3 and 4 applications.

Numerous discussions have been held between Council and the applicants in relation to the suitability of these dual use areas. It is considered, that given that Council has issued the subdivision certificate for the stage 1 consent, the issue of infiltration has been satisfactorily addressed and accepted.

7.0. Infiltration Basin Sizing

Permeability

The applicant's infiltration analysis contains percolation tests in accordance with Appendix B of AS 1547, Disposal Systems for Effluent from Domestic Premises which have measured permeability's ranging from 44m to 57m per day. For design and sizing of infiltration basin purposes they have adopted 24m/day.

There is no current Australian Standard for design of stormwater infiltration systems. In the absence of such a standard the applicant has used the sewerage effluent standard AS 1547 to derive permeability rates. This standard gives 1.2 - 6 m/day as typical values of permeability in sand, which are considerably less than the rates measured and proposed for design and sizing of infiltration basins by the applicant. The standard modifies raw permeability rates by a "Long Term Acceptance Rate" table (resulting in a reduction factor of up to 100 times) for sizing absorption areas. The applicant does not propose any such reduction in their raw permeability rates to allow for long-term reduction in permeability due to clogging and other factors.

A condition is proposed to reduce raw permeability rates to lower values that are more acceptable for design of long-term infiltration areas.

Location and Sizing of Ponds

The specific size and location of infiltration ponds is not indicated in the application, conditions can specify criteria for sizing the total basin size for each catchment. For east flowing runoff indicative locations for infiltration ponds are along the coastal drainage swale and in the drainage swale between the coastal drain and controlled outlet No. 11. For west flowing runoff, infiltration areas are likely to be required at three locations within the subdivision prior to discharge to other land.

For the purpose of this report a condition can be drafted requiring a certain area of infiltration basin for each catchment, together with criteria for the basins design and management. Other units will need to determine compatibility with other proposed uses.

Reports from Director Development Services

8.0. Stormwater Quality

Erosion and Sediment Control

The ESCP submitted with the DA and the final proposal for ESCP contained in part 5 of Cardno MBK "Water Quality Management and Monitoring Program" (1/2/200) are insufficiently detailed to serve as the basis of conditions of consent for this activity.

Council's recently adopted Urban Stormwater Quality Management Plan (prepared in accordance with a Direction EPA under Section 12 of the Protection of the Environment Administration Act, 1991) requires stormwater objectives during the construction phase of new development to comply with "Tweed Shire Council, Aus-Spec D7 - Stormwater Quality, and Annexure A - Code of Practice for Soil and Water Management on Construction Works". Proposed conditions of consent will incorporate these requirements.

Permanent Stormwater Quality Controls

The final proposal is contained in Cardno MBK letter 21/2/2000. Attachment B "Water Quality Management and Monitoring Program", proposed a treatment train for the for the operational phase it proposed a treatment train consisting of:

- *Disposal of roof water drainage by on-site infiltration for individual properties*
- *Collection of sediment and gross pollutants via catch pits*
- *Installation of Humeceptors at locations where oils and greases may be generated*
- *Transport of stormwater runoff by grassed swales and vegetated strips*
- *Screening of outlets to infiltration basins to capture gross pollutants*
- *Disposal of 3 month ARI stormwater flows by infiltration in specifically designed basins*

Whilst no water quality modelling accompanies this application, the treatment train proposed is similar to that proposed in the North Kings Beach (Sahben) site and would yield similar results.

9.0. Conclusion

Issues regarding stormwater quality, infiltration, erosion and sediment control can be addressed by consent conditions.

As in past stages, dual use issues for land to be used for both drainage and open space remains largely unresolved at this stage. If the landform resulting from drainage constraints renders designated open space unsuitable for that purpose, then drainage may need to be underground or relocated onto other land. Relocation of drainage or water quality devices onto other land is likely

Reports from Director Development Services

to require the dedication of additional land and a consequent revision of the subdivision / lot layout to provide this additional land.”

Environment & Community Services Division Comments

Council’s Environment and Health Services Unit raise no objections to the proposal. The submitted acid sulfate soil management plan, water quality monitoring and management plan and the sedimentation and erosion control plan are all considered to be generally satisfactory and should be included as a condition of any consent.

The Building Services Unit raises no objections to the proposal. However, as discussed in Section (b) of this report the Building Unit have assessed the architectural design regulations and recommend that Council should not be party to the ADR.

Landscaping

Street trees will be provided or contributions obtained.

The proposal will involve the removal of a substantial amount of vegetation, which in part has been accepted due to the zoning of the land and the contents of DCP No. 11.

The landscape master plan for Stage 6 provides for extensive landscaping over the site. Landscaping is primarily provided along the streets, roads and within the open space. The principle goal of the landscape works is to provide the Kings Beach community with a safe, secure environmentally sustainable landscape, which facilitates a broad range of private and community based recreational activities.

The landscaping shall improve the amenity of the site and should also ensure that the maintenance of those areas is minimised. It is considered that landscaping this site should be undertaken in accordance with the landscape master plan for Stage 6 and the details provided with the application.

Natural Hazards

No known natural hazards are likely to affect the site other than coastal processes.

This together with the Crown Reserve to the east should provide adequate protection to the site.

Social/Economic Effect

As discussed in Section (a)(i) of this report, TLEP 2000 requires that a social impact assessment be provided for developments that may have a significant social or economic impact. It is considered that this assessment is not necessary.

The proposal will provide additional dwelling lots to cater for some of the growth along the Tweed Coast. The proposal will increase demands for services and facilities some of which will be catered for on the site when various stages of the Kings Beach development are released. There will be an increased maintenance burden for Council in relation to additional structured and casual open space. However, this open space is required to meet the need of the future population.

Reports from Director Development Services

The proposal will provide employment opportunities both during the construction and post construction phases. This will likely improve the economy of the locality and the Tweed with potential spin off effects.

In addition, the Kings Beach development will also provide additional rate revenues for the Tweed Shire Council.

(c) The Suitability of the Site for the Development

As discussed throughout section (b) of this report it is generally considered and accepted that the site is suitable for the development. The site has a long history and has a commitment given by the LEP amendment and DCP for urban development in this location.

Whilst the general suitability of the site for the proposed development is acknowledged, concern exists in relation to those issues identified by Council's Subdivision Engineer and Engineering Services Division previously in this report.

(d) Any Submissions made in accordance with the Act or Regulations

Public Submissions

The application was not statutorily required to be advertised.

Public Authority Submissions

See consultation section of this report.

(e) The Public Interest

A number of State Government Planning Policies (SEPPs) and other planning guidelines (LEPs and DCPs) have relevance to this application. The latter were discussed in detail within Section (a) of this report.

As discussed in Section (d) the application was not statutorily required to be advertised.

The proposal is considered unlikely to compromise the public interest.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination of the application, a right of appeal is available in the Land & Environment Court.

OPTIONS

Council can either:

1. Approve the application subject to conditions - modified or as recommended.
2. Refuse the application.

CONCLUSION

This report concludes that all issues have been satisfactorily resolved or can be addressed by appropriate conditions.

Reports from Director Development Services

This is a very significant development for Tweed Shire and, indeed, in the State. In its entirety, the development of the Kings Beach site is of a very significant scale and nature and has the potential to provide for a focal point of development for not only the Tweed area, but also the wider region.

It is considered that the outstanding issues can be adequately addressed via the imposition of relevant conditions, as recommended.

Orders of the Day

1. Notice of Rescission - Cr James, Cr Luff and Cr Boyd

Proposed 94 Lot Subdivision at Lot 1 DP 811425, Lot 7 DP 1014470, Lot 6 DP1014470 and Lot 5 DP 1014470 Coast Road, South Kingscliff - Casuarina Beach Stage 6 (DA 0681/2000DA)

DA1180/382 Pt5

That Council resolution at Minute No 164 in relation to Item 8 of the Meeting held 16 August 2000 being:-

".....that Development Application No. 0681/2000DA for a 94 lot subdivision of Lot 1 DP 811425, Lot 7 DP 1014470, Lot 6 DP1014470 and Lot 5 DP 1014470 Coast Road, South Kingscliff (Casuarina Beach Stage 6) be approved subject to the following conditions:-

PRE-REQUISITES - conditions that must be complied with prior to the release of a construction certificate

- 1. Prior to the issue of a Construction Certificate a Fire Management Plan is to be submitted and approved by Council. The plan shall address potential environmental impacts, including impacts on threatened species.*
- 2. A detailed plan of landscaping is to be submitted and approved by Council prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans. The detailed landscaping plan shall include a list of species, which ensure no potential for seed transfer to Lot 500, which would conflict with the propagation and maintenance of species, specified in the Dune Management Plan and Lot 500 Management Plan.*
- 3. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, prior to issue of the Construction Certificate. The applicant shall submit evidence to Council that the traffic control plan has been prepared by an authorised person. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.*
- 4. Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-*
 - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or*

Orders of the Day

- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.*
- 5. The Stage 6 application is to be consistent with the lot boundaries of open space lots 8, 9, 13 & 14 in DP 1014470.*
- 6. Notwithstanding any other condition of this consent, a construction certificate for bulk earthworks may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a construction certificate for all subdivision works subject to compliance with the following conditions:- 3, 4, 14, 15, 16, 17, 18, 21, 24, 25, 27, 34 (relating to bulk earthworks only), 35 (relating to bulk earthworks only), 36, 47 (viii), (xii), (xiv), 52, 54, 55, 56, 58, 59, 60, 61, 62(d), (ii), (iii), (iv), (v), (vi), (vii), 64, 73, 74, 75, 76, 78, 79, 80, 84.*

GENERAL

- 7. Prior to the issue of a Subdivision Certificate pursuant to this consent ALL works bonded pursuant to Consent S96/135 for Stage 1 shall be completed to the satisfaction of Council.*
- 8. Construction of each section of walkway / cycleway immediately east of any management lot shall be completed prior to the release of the linen plan for subdivision of the respective management lot.*
- 9. The design of the walkway shall be integrated with any adjacent proposed car parking areas and beach access points and shall extend for the full frontage of the land including, where necessary, within the Crown Foreshore Reserve subject to the approval of the Reserves Trust.*
- 10. This consent does not give approval to proposed Stage 6b, which shall be subject to a fresh development application.*
- 11. A total of 75 public parking spaces are to be provided along the eastern side of proposed road 11, in accordance with the Stage 6 concept master plan. The subject parking spaces are to be designed and constructed in accordance with Council's Development Control Plan No. 2 – Site Access & Parking Code.*
- 12. Submission of separate development application/s for further development of the proposed residue lot and medium density allotments (proposed lots 113, 169, 171, 172, 173, 174, 175, 176 & 177).*
- 13. The Architectural Design Regulations shall not be included in any legal document to be administered by Council. NOTE: Some aspects of the ADR such as setbacks, fencing etc will need to be incorporated into a DCP for control by Council. Accordingly, DCP 11 – Kings Beach will need to be amended to incorporate the following conditions;*
 - (i) The minimum setback from the street front boundary to the wall of a dwelling is to be not less than six (6) metres.*

Orders of the Day

The minimum setback from the street front boundary to the wall of a single garage is to be not less than 5.4 metres and not less than 5 metres to the wall of a double garage.

Special design elements such as verandahs, entrances and the like constructed of open design shall be setback a minimum of 3 metres from the front street boundary.

- (ii) The minimum side boundary setback for any dwelling shall be not less than 900mm to the wall and not less than 675mm to the outer most projection of the eave.*
- (iii) The minimum setback from a secondary street boundary of a corner lot to the wall of a dwelling is to be not less than 3 metres.*
- (iv) For beachfront lots, the rear building line is the boundary line between the 2(e) and 7(f) zones. No structures are permitted within the 7(f) zone.*
- (v) All fencing east of the 7(f) and 2(e) zone boundary shall be a maximum height of not more than 1.2 metres.*

The above conditions (i)-(v) can be varied by Council subject to the merits of each development application.

- 14. The development shall be completed in general accordance with Figures E403, E404 and E405 prepared by Cardno MBK and dated May 2000, except where varied by these conditions.*
- 15. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.*
- 16. No soil, sand, gravel, clay or other material shall be disposed of off the site without the approval of Council.*
- 17. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of Council prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.*
- 18. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.*
- 19. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No DA2000/681 have been complied with.*
- 20. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:*
 - i. Easements for sewer, water supply and stormwater drainage over ALL services on private property.*

Orders of the Day

- ii. *A restriction as to user requiring that all roofwater from dwellings shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principal Certifying Authority.*

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

21. *Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.*
22. *In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.*
23. *Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.*
24. *Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of Council.*
- The sign is to remain in place until the Subdivision Certificate is issued.*
25. *It shall be the responsibility of the applicant to ensure that at all times the 'Optus Cable', which traverses the subject site, is protected from construction damage.*
- The applicant must identify the location of the cable prior to the commencement of construction. The cover over the cable shall not be permanently increased or decreased without the consent of the owner of the cable.*
26. *All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.*
27. *Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services PRIOR to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material*

Orders of the Day

carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

28. *In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.*

Open Space

Casual Open Space

29. *The cycleway / walkway corridor shall be landscaped and fenced in accordance with plans to be submitted and approved before work commences.*
30. *Dedication, at no cost, to Council of the local parks (proposed lots 170, 179 & 180). These parks are to be suitably embellished including but not limited to filling, topsoiling, grading, seeding, planting, installation of seating and play ground equipment and shade cover. Details to be submitted with the Construction Certificate application to the satisfaction of Council. The embellishment works shall be completed prior to release of the linen plan.*

Active Open Space

31. *Prior to the release of the Stage 6a linen plans, the applicant shall embellish the active open space Stage 1 Management Lot 10 DP 1014470 to the satisfaction of Council in accordance with detailed plans to be submitted and approved with the Construction Certificate application. Such embellishment shall be in accordance with S.94 Plan No. 19, including, but not limited to:-*
- (a) *Being capable of use as playing fields (i.e. level of acceptable geometric shape and drained).*
 - (b) *Top dressing, seeded and landscaped, including irrigation facilities.*
 - (c) *Council will also require provision of an amenities block for the structured open space area, with appropriate vehicular parking and pedestrian access.*

CONTRIBUTIONS

32. (i) *Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.*

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

Orders of the Day

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Stage 6A

a. Tweed Road Contribution Plan:

93 lots @ \$2394 per lot \$222,642.00

Local Contribution

93 lots @ \$554 per lot \$51,522.00

A credit for local contribution will apply in relation to works on these intersections, pursuant to the stage 2, 3 & 4 consents.

S94 Plan No. 4 (Version 4.0)

(Duranbah/Cabarita/Kings Forest Development - Residential)

If any available credits are not consumed by the Stage 2 Consent No. K99/1360, Stage 3 Consent No. K99/1733, or Stage 4 Consent No. K99/1732, Council will apply credits towards this contribution in relation to the amount that is determined as credit pursuant to Condition 12(a)(i) of the Stage 1 Consent S96/135 and Section 94 Plan No. 4.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\$Con_{TRCP - Heavy} = Prod. \times Dist \times \$Unit \times (1 + Admin.)$$

where:

$\$Con_{TRCP - Heavy}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads

(trip one way)

Orders of the Day

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

b. Street Trees: 93 lots @ \$42.90 per lot \$3,989.70

S94 Plan No. 6

c. Shirewide Library Facilities:

93 lots @ \$300 per lot \$27,900.00

S94 Plan No. 11

d. Eviron Cemetery/Crematorium Facilities:

93 lots @ \$126 per lot \$11,718.00

S94 Plan No. 13

e. Bus Shelters: 93 lots @ \$23 per lot \$2,139.00

S94 Plan No. 12

f. Emergency Facilities (Surf Lifesaving)

93 lots @ \$250 per lot \$23,250.00

S94 Plan No. 16

g. Extensions to Council Administration Offices

& Technical Support Facilities

93 lots @ \$344.81 per lot \$32,067.33

S94 Plan No. 18

h. Structured Open Space 93 lots @ \$640 per lot \$59,520.00

S94 Plan No. 19

NB: The works required by Condition No. 31 shall be credited against this contribution for an approved amount in accordance with the provisions of Section 94 Plan No. 19

i. Cycleways 93 lots @ \$160 per lot \$14,880.00

S94 Plan No. 22

NB. Contribution to be credited against cost of works in condition No. 49.

j. Community Facilities: 93 lots @ \$497 per lot \$46,221.00

S94 Plan No. 19

Orders of the Day

33. A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Stage 6A

Water: 93 lots @ \$3590 per lot \$333,870.00

Local Section 64 Water Supply levy 93 lots @ \$205 per lot \$19,065.00

Sewer: 93 lots @ \$2970 per lot \$276,210.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

FURTHER APPROVALS

34. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and required by this consent.

The following information must accompany applications for a construction certificate for subdivision work.

(i) Subdivision Work

In the case of an application for a construction certificate for subdivision work required by this consent:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement

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- *road furnishings*
- *stormwater drainage*
- *water supply works*
- *sewerage works*
- *landscaping works*
- *sedimentation and erosion management plans*
- *location of all service conduits (water, sewer, NorthPower and Telstra)*
- *the approved Traffic Control Plan*
- *the relevant maintenance manuals (eg. G.P.T's, water pump station)*

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

35. *Subdivision work in accordance with a development consent must not be commenced until:-*
- (a) *a construction certificate for the subdivision work has been issued by:*
 - (i) *the consent authority, or*
 - (ii) *an accredited certifier, and*
 - (b) *the person having the benefit of the development consent:*
 - (i) *has appointed a principal certifying authority, and*
 - (ii) *has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and*
 - (c) *the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.*
36. *Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount of \$10,000.*

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The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of Council.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

37. *Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.*

(i) *The following information must accompany an application:*

a) *Original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$115 per lot*

Stage 6A- 97 lots @ \$115/lot = \$11,155.00.

b) *Relevant development consent or complying development certificate*

c) *Detailed subdivision engineering plans endorsed with a construction certificate (where applicable)*

d) *Evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)*

e) *A certificate of compliance from the relevant water supply authority (where applicable)*

f) *If a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council*

g) *For subdivision involving subdivision works evidence that:*

(i) *the work has been completed, or*

(ii) *agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or*

(iii) *security given to the consent authority with respect to the completion of the work*

h) *Work as Executed Plans for ALL works*

(i) *Documentary evidence that all matters contained in Section 109J of the Act have been complied with.*

(ii) *Written evidence from Council that the proposed road/street names have been approved.*

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Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

38. *Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-*

- (i) Compliance Certificate - Roads*
- (ii) Compliance Certificate - Water Reticulation*
- (iii) Compliance Certificate - Sewerage Reticulation*
- (iv) Compliance Certificate - Sewerage Pump Station/vacuum pots*
- (v) Compliance Certificate - Drainage*

Note:

- (1) Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.*
- (2) Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-*

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures*
- b. Completion of earthworks*
- c. Excavation of subgrade*
- d. Pavement - sub-base*
- e. Pavement - pre kerb*
- f. Pavement - pre seal*
- g. Pathways, footways, bikeways - formwork/reinforcement*
- h. Final inspections - on maintenance*
- i. Off Maintenance inspection*

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Water Reticulation, Sewer Reticulation, Drainage

- a. *Excavation*
- b. *Bedding*
- c. *Laying/jointing*
- d. *Manholes/pits*
- e. *Backfilling*
- f. *Permanent erosion and sedimentation control measures*
- g. *Drainage channels*
- h. *Final inspection - on maintenance*
- i. *Off maintenance*

Sewer Pump Station

- a. *Excavation*
- b. *Formwork/reinforcement*
- c. *Hydraulics*
- d. *Mechanical/electrical*
- e. *Commissioning - on maintenance*
- f. *Off maintenance*

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- (3) *The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".*

39. *Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.*

The plans are to be endorsed by a Registered Surveyor AND a Consulting Engineer Certifying that:

- (i) *all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;*
- (ii) *the plans accurately reflect the Work as Executed.*

Note: Where Council carries out works on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

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40. *Prior to the issue of a Subdivision Certificate a maintenance bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.*

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

41. (i) *PRIOR to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.*

- (ii) *To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.*

The names shall be approved PRIOR to lodgement of any plan of subdivision in respect of the development.

Names which duplicate existing and approved street names will not be approved.

42. *Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.*

- i. *That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.*
- ii. *That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)*
- iii. *That the pavement layers have been compacted to RTA specifications.*
- iv. *That site fill areas have been compacted to the specified standard.*
- v. *That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.*
- vi. *That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.*

43. *All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of Council.*

44. *The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.*

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ROADS/STREETS

45. *Submission of documentary evidence that adequate vehicular access in accordance with Council's 'Access to Property' pamphlet, can be provided to each lot.*
46. *All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans referred to in Condition No. 15 AND the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.*
47. *The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-*
 - i. *Construction of the roads in the subdivision shall be generally in accordance with Cardno MBK Figures E423 and E423A, except where varied by the table below, and where varied by these conditions.*
 - ii. *Road cross sections employing "roll over" kerbing with a minimum of 0.9m abutting grass filter verge containing street lighting and street trees, to discourage parking on the footpath.*
 - iii. *A native tree planting schedule for each of the roads in the table below showing the location and species of each street tree, clear of driveways and sight lines.*
 - iv. *Proposed traffic calming devices must comply with the relevant Australian Standard and the NSW Roads and Traffic Authority technical direction for raised platforms. Detailed design plans shall be submitted with the construction certificate application.*
 - v. *Drainage inlets are to be relocated to avoid conflict with pram ramps for cycleway/walkways.*
 - vi. *Roundabouts shall be constructed at the following intersections in accordance with Austroads Pt.6 – Roundabouts;*

Road No. 1 and Road No. 7 – Outside circulating diameter to be 30.0m

Road No. 10 and Road No. 7 – Outside circulating diameter to be 28.0m

Road No. 3 and Road No. 5 – Outside circulating diameter to be 28.0m
 - vii. *The engineering plan shall provide for bus shelters on Road No. 7 and Road No. 11. The location of these bus shelters shall be determined after consultation by the applicant with the bus operators. The type and style of the bus shelters shall be approved by Council prior to installation and shall be clearly identified on the engineering plans lodged with the Construction Certificate.*
 - viii. *The Casuarina Beach developer shall be responsible for 50% only of the costs, of the construction of the road and will bond 120% of that 50%.*

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- ix. A roundabout shall be constructed at the intersection of the existing Coast Road and the newly constructed Crown road reserve in accordance with Austroads Pt.6 – Roundabouts. The outside circulating diameter shall be 28.0m.
- x. The future connection point for the realignment of the Coast Road shall be Catherine Street.
- xi. Road 4 shall be cul-de-sac at either end where it abuts Road 11 and the Crown Reserve Road on the northern boundary of the land. Road 11 shall not be connected to Road 2 and appropriate landscape barriers shall be placed near the alignment of Road 2 and Road 11. A pedestrian access at the alignment of Road 2 and Road 11 and at the alignment of Road 4 and Road 11 shall be provided. Pedestrian access only shall be provided at the alignment of Road 4 and the Crown Reserve Road on the northern boundary of the land subject of this application.
- xii. The bulk earthworks and engineering plans shall ensure the continuity of the existing realigned Coast Road is maintained at all times.
- xiii. Notwithstanding any steps within the Road Reserve boundary, the minimum road pavement and footway widths shall be maintained for the full length of all roads and shall be in accordance with the table below.

Figure	Road Number	Min. Road Reserve	Min. Carriageway Width	Min. Footway Width
E423	1	20.0m	9.0m	5.5m (paved footways widths 2.5m north side and 1.5m south side)
E423A	3	20.0m	9.0m	5.5m (paved footway width 1.2m both sides)
E423A	5	16.0m	7.5m	4.25m (single paved footway width 1.2m)
E423A	6	14.0m	7.5m	3.25m
E423	7	20.0m	11.0m	4.5m (paved footway widths 2.5m on eastern side & 1.5m on the western side)
E423	8	16.0m	7.5m	4.25m(paved footway widths 1.2m both sides)
E423	9	14.0m	7.5m	3.25m(single paved footway 1.2m wide)
E423	10	20.0m	2x5.5m plus 2.0m medium	3.5m(paved footway width 1.5m both sides)
E423/E423A	11 ch 0.0 - 130.0 & ch 480 - 612	18.0m	11.0m	3.5m(paved footway width 1.5m both sides)

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<i>Figure</i>	<i>Road Number</i>	<i>Min. Road Reserve</i>	<i>Min. Carriageway Width</i>	<i>Min. Footway Width</i>
E423/E423A	11 ch 140 – 480	16.0m	9.0m	3.5m(paved footway width 1.5m both sides)
E423A	12	14.0m	7.5m	3.25m(single paved footway 1.2m)
E423A	13	20.0m	9.0m	5.5m(paved footway width 1.2m both sides)

48. *All permanent cul-de-sacs shall be constructed with kerb radius of 9.0m and a minimum footway width of 3.0m.*
49. i. *All cycleway, walkways and coastal walkway/cycleways shall be designed in accordance with Austroads Guide to Traffic Engineering Practice Part 14 and AMCORD provisions for single and shared footway/cycleway (Element 1.4 and PND17), and construction in accordance with engineering plans and specifications which accompany the construction certificate application which shall be approved by the Director, Development Services.*
- ii. *Pursuant to Section 94 Plan No. 19 and to be consistent with Condition 39(a)-(e) of Development Consent S96/135 issued by the Land and Environment Court on 16 December, 1998, the applicant shall construct all cycleways, walkways and coastal walkways/cycleways applicable to Stage 6 as shown on Map 5 contained within Section 94 Plan No. 19.*
- iii. *Alternatively, the developer may, in the case of residential frontage footpaths, pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.*
- iv. *If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.*
50. *Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of Council.*

DRAINAGE/FLOODING

51. *All fill of new residential lots is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate application.*

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52. *On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped with the exception of infiltration basins.*
53. *All roofwater from dwellings shall be discharged to infiltration pits located on each subject allotment. The design of the infiltration pits shall be submitted with the Application for the dwelling and approved by the Certifying Authority.*
54. *All proposed building pads are to be above the Q100 design flood level, including provision for any localised overland flow, such that at least 300mm freeboard is provided to the satisfaction of the Director Development Services.*
55. *The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.*
56. *The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.*
57. *Prior to final acceptance of the Stormwater system and release of the maintenance bond a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.*
- All costs associated with the CCTV inspection and repairs shall be borne by the applicants.*
58. *All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond/infiltration basins prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.*
59. *Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.*
- Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.*
- This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.*
60. (a) *For the purpose of this condition "trunk drainage" shall be defined as:*

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- (i) *The “trunk drainage” defined in the consent conditions of DAK99/1733 (Casuarina Beach Stage 3, being the drain along the coastal frontage of Stage 3 to the south east corner of proposed lot 82 in Stage 3 and the east/west continuation of this drain, downstream to Controlled Outlet No. 11 as generally located on Cardno MBK Figure E216 Rev B. The ultimate point of discharge for this part of the development shall be Controlled Outlet No. 11.)*
 - (ii) *The drainage paths between the east draining stormwater outlets from proposed stage 6 and the coastal frontage drain included in (i) above.*
 - (iii) *No stormwater runoff shall be discharged to the west of the realigned Coast Road, other than from half the width of road 3, 7 & 13.*
- (b) *The ultimate lawful point of discharge for east flowing stormwater runoff from this application shall be controlled outlet No. 11.*
 - (c) *Trunk drainage shall be designed to convey Q100 stormwater discharge. The trunk drainage shall be constructed and the land (containing the drain) dedicated to Council or easements created. In the section between proposed lot 70 of stage 3 and Controlled Outlet No. 11, the land to be dedicated (or easement) shall include the drain and provision for maintenance vehicle access, the maintenance vehicle access shall be constructed to all weather, two wheel drive standard.*
 - (d) *The trunk drainage along the coastal boundary, and elsewhere, shall be designed to accommodate Q100 (no infiltration) flows with a minimum 300mm freeboard. Separate approval is required for any drainage along the coastal boundary that requires filling or any other ancillary works on adjacent land. Where consistent with other land use requirements, grassed swale drainage is to be used in preference to pipes or hard lined channels. In designated public open space areas, open drains will only be permitted if the resultant landform is satisfactory to Council for open space purposes.*
61. *The subject land shall be shaped in general accordance with Cardno MBK. Revised Final Levels – 6a, as attached to the letter from Cardno MBK dated 25 July 2000 as limited by Figure E426 “Bulk Earthworks” except as follows;*
- (i) *The levels adjacent to the Crown Road at the northern end of the subdivision shall not vary from the existing levels by more than approximately 500mm (the Crown road on the northern boundary may be converted to public road, formed and drained to achieve this) and;*
 - (ii) *Where the proposed levels are inconsistent with existing levels on adjacent land, retaining walls (and any necessary ancillary or drainage works) shall be provided on the lot boundaries to ensure the land shaping has no adverse affect on adjoining land. Plans and specifications of the retaining walls and ancillary works and the written approval of the adjacent landowner shall be submitted with the construction certificate application.*

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NB. As an alternative, the applicant may submit a proposal with the construction certificate application for simultaneous reshaping and draining of both the subject land and adjacent land. Such a proposal must be authorised by all affected land owners and indemnify Council from any action resulting from the execution of the proposal or any landforming activity that may adversely affect adjoining land.

- (iii) *Provision shall be made to ensure surface runoff does not discharge onto lot 500 or other adjoining land, except where required by Condition 48(viii).*
- (iv) *Provision shall be made to accept up to Q100 natural or existing surface runoff from adjacent land that discharges onto the subject land.*

62. *Permanent Stormwater Quality Treatment*

(A) *Stormwater Quality Objectives*

Permanent stormwater quality treatment shall comply with "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 and demonstrate compliance by modelling in accordance with section 5.5.4 of the Plan:

Section 5.5.5 of the plan further advises that treatment is in accordance with the "deemed to comply" provisions of Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality is deemed to comply with the objectives in 5.5.3".

"Table 5.4 Stormwater Treatment Objectives for Post Construction (Occupational) Phase of Development

<i>Pollutant</i>			
<i>Nutrients</i>	<i>Maximum permissible load that may be discharged kg/ha/year</i>		
	<i>Average year (1719mm)</i>	<i>Wet Year (2185mm)</i>	<i>Dry Year (929mm)</i>
<i>Suspended solids (SS)</i>	300	400	120
<i>Total Phosphorus (TP)</i>	0.8	1.1	0.35
<i>Total Nitrogen (TN)</i>	4.5	6	1.5
<i>Litter</i>	<i>Retention 70% of annual litter load greater than 5mm</i>		
<i>Coarse sediment</i>	<i>Retention of 90% of annual load of sediment coarser than 0.125 mm</i>		
<i>Oil and grease (hydrocarbons)</i>	<i><10 mg/litre in flows up to 40% of Q1 peak."</i>		

Note: The Water Quality Management and Monitoring Program contained in Cardno MBK letter of 21 February 2000 containing proposals for Water Quality Management generally achieves the above objectives.

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(B) Water Sensitive Design

Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse. These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients, and provide for appropriate operation, cleaning and maintenance of water quality control devices.

(C) Infiltration

- i. *Infiltration areas are to be sized with a safety factor of 2 (this is to allow for long term deterioration in infiltration rate).*
- ii. *Runoff entering infiltration trenches/basins shall be pre-treated to remove sediment and gross pollutants.*
- iii. *The infiltration rate for infiltration devices shall be determined as follows*
 - (i) *Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994 - Disposal Systems for Effluent from Domestic Premises.*
 - (ii) *If the above calculation yields a result <6m/day, this rate may be used for design.*
 - (iii) *If the result is >6m/day, the rate for design may not exceed 6m/day unless this rate is confirmed by independently determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. Notwithstanding these tests, the maximum infiltration rate that may be used for design and sizing purposes is 12m/day*

(D) Specific Requirements

Permanent stormwater quality devices are to be designed in accordance with these conditions and "Tweed Urban Stormwater Quality Management Plan" Appendix E – Tweed Shire Council, Aus-pec D7 – Stormwater Quality, and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate Application.

Unless stated otherwise, references in brackets refer to sections on devices in NSW EPA publication "Managing Urban Stormwater - Treatment Techniques, November 1997".

- (i) *Roof drainage. All future roof drainage is to be discharged to infiltration trenches located on each contributing allotment or on other land appropriately title burdened to the contributing allotment. Infiltration trenches shall be designed in accordance with the following criteria:*

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- *As a minimum requirement, trenches are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24-hour period, with a safety factor of 2, before surcharging occurs.*
 - *Surcharge overflow from the infiltration area to the street gutter, interallotment or public drainage system must occur by visible surface flow.*
 - *Runoff is to be pre treated to remove contaminants prior to entry into the absorption areas (to maximise life of absorption areas between major cleaning/maintenance overhauls).*
 - *If the site is under strata or community title, the strata/community title plan is to ensure that the absorption areas are contained within common areas that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).*
- (ii) *Where consistent with other land use requirements, grassed swale drainage (Ref 5.2) is to be used in preference to pipes or hard lined channels*
- Note: Swales are not preferred as a substitute for kerb and gutter*
- *where on street parking is required, unless cars can be excluded from swale area*
 - *on roads serving small lots with numerous driveways*
 - *where gradients are <1% or >5%)*
- (iii) *Oil/Grit Separators (ref 4.7), permanent pool 30m³ per impervious hectare, with 50-70% of this volume in first chamber (or alternative devices approved by Council) are to be provided in the underground road/hardstand stormwater drainage systems to remove sediment, litter and oil/grease prior to discharge onto the coastal drain/infiltration area.*
- (iv) *Infiltration basins (ref 5.6) shall be provided for west flowing runoff prior to discharge from outlets on residue lot 113. The applicant shall ensure infiltration of runoff from all contributing stormwater for flows of up to 40% of ultimate Q_1 year. Infiltration basin sizing shall be determined on a catchment basis. For the purpose of this consent a “catchment” shall be the total area draining controlled outlet No. 11. The infiltration basins shall be contained within reserves to be dedicated to Council. As an interim measure the infiltration basins for west flowing runoff may be located in easements, pending finalisation of the layout for all of stage 1 management lots 6 and 7. The basins may only be contained within designated public open space areas, if the resultant landform is satisfactory to the Director of Environment and Community Services.*
- (v) *Infiltration basins are to consist of raw dune sand with an minimal vegetation cover of endemic dune grasses. No topsoil, mulch or other vegetative matter is to*

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be used on infiltration basin surfaces and no establishment, operation or maintenance procedures are permitted that may reduce surface permeability.

63. *Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.*

64. *This condition refers to proposed lots 169,171,172,173,174, 175,176, 177 and 178.*

Prior to the issue of any Subdivision Certificate the following shall be required;

- (i) Sufficient permanent infrastructure must be constructed in the subdivision that creates these lots so that they may be capable of being developed to their ultimate capacity by subsequent applicants without any requirements for provision or augmentation of external infrastructure. All proposed infrastructure that crosses the boundaries of these lots or runs adjacent to their boundaries must be constructed in the subdivision that creates the lots.*
- (ii) These lots shall be provided with interim and ultimate drainage inlets on the lots or at lot boundaries. The interim period is defined as that time between the creation of the lot and the development of the lots. The lots shall be shaped to ensure all interim Q5 concentrated drainage and surface runoff from slopes longer than 40m is discharged to these inlets. Provision shall be made outside the lots for acceptance and transport of ultimate and interim Q100 flows from the lots.*
- (iii) Where infrastructure required to serve a future development lot, passes through another lot, easements in favour of Council shall be granted over the infrastructure (and necessary access roads to such infrastructure).*
- (iv) Any public utilities currently located in these lots are to be either relocated to public land or easements created over the existing alignments*

SERVICES

Sewer

65. *The applicant shall lodge detailed engineering plans with the construction certificate application for the Sewerage Reticulation and Pumping System.*

66. *i. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter*

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sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

- ii. *Any Sewerage Works required by the Stage 1 Consent S96/135 which have been bonded shall be completed to the satisfaction of the Director of Engineering Services PRIOR to release of the linen plan.*

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

- 67. *Prior to final acceptance of the Sewer system and release of the maintenance bond a CCTV inspection of the sewer pipes will be required to demonstrate that the standard of the sewer system is acceptable to Council.*

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

Water

- 68. *Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.*

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

- 69. *The applicant shall lodge with the Construction Certificate application for stage 6A a detailed demand analysis for the proposed pipe network, which clearly shows that peak demand and fire fighting requirements are satisfied.*
- 70. (i) *The existing 250dia. water main as shown on Figure E422 shall be upgraded to a 450dia water main generally in accordance with the Statement of Evidence Report on Water Supply Infrastructure prepared by P.N. Casey and dated September 1998.*
 - (ii) *No individual house connections shall be allowed to this 450dia trunk main. A separate reticulation water main suitably sized shall be required to service allotments.*

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- (iii) *At least one (1) week prior to the decommissioning of the 250dia water main and the commissioning of the 450dia water main, the applicant shall notify all affected residents of the disruption to their water supply. The Director Engineering Services shall approve the notification program. Council shall supervise all works at the applicant's expense.*

Telephone

71. *The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply, prior to issue of a Subdivision Certificate.*

Electricity

72. i. *The production of written evidence from NorthPower certifying that reticulation of underground electricity has been completed; and*
- ii. *Prior to the issue of a Subdivision Certificate, the reticulation to include the provision of fully installed electric street and parkland pathway lights to the relevant Australian standard. Such lights are to be capable of being energised following a formal request by Council. The proposed location and style of lighting standards (clear of other public utilities, private accesses and street trees) are to be submitted with the Construction Certificate Application.*

ENVIRONMENT PROTECTION

73. *Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.*
74. *All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.*
75. *All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.*
76. *The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.*
77. *Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.*

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) *Contours and terraces where the height exceeds 1m.*
- ii) *Cover with topsoil and large rocks/dry stone walls in terraces as necessary.*

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- iii) *Densely plant with sub-tropical (rainforest) native and native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.*
 - iv) *Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.*
 - v) *The landscaping shall be completed to the satisfaction of the Director Development Services PRIOR to the issue of a Subdivision Certificate.*
 - vi) *A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.*
78. *All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.*
79. *The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.*
80. *Construction site work including the entering and leaving of vehicles is to be restricted to between 6.00 am and 8.00 pm Monday to Saturday and no work on Sundays, providing that no residential premises are adjacent to the site, in which case, construction times are to be restricted to 7.00am to 7.00pm Monday to Saturday.*
81. *All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:*
- A. *Short Term Period - 4 weeks.*
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. *Long term period - the duration.*
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
82. *The following restrictions apply to dog and cat ownership and control on all residential lots:-*
- A. i. *Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one de-sexed*

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cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.

- ii. *No dog shall be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.*
- iii. *No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.*

These ownership and control requirements shall be reinforced by a Restrictions as to User under Section 88B of the Conveyancing Act, 1919-1964.

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied and modified only with the consent of Council.

- B. *The applicant shall prepare a list of non-endemic garden plants that have a reputation for becoming environmental weeds on coastal sands on the Tweed. The list is to be approved by the Council granting delegated authority to the Director Environment & Community Services. The growing of plants in the list shall be prohibited on the subject land by way of a Restriction as to User under Section 88B of the Conveyancing Act.*

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied or modified only with the consent of Council.

- 83. *All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording to the satisfaction of Council.*
- 84. *The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.*
- 85.
 - i. *Submission of documentary evidence that Part V Approval has been obtained for those works to be undertaken in accordance with the Dune Management Plan and Lot 500 Management Plan required by Consent S96/135 issued by the Land and Environment Court on 10 December, 1998.*
 - ii. *The Dune Management Plan and Lot 500 Management Plan prepared by Aspect North and dated 29 May 2000 shall be implemented in accordance with any Part V Approval obtained pursuant to Condition 87(i) to the satisfaction of Council.*
- 86. *In accordance with Condition 34 of Consent S96/135 for Stage 1, prior to issuing a Construction Certificate for development of any management lot, all existing bitou bush plants shall be removed from that lot and the resultant disturbed areas shall be treated to suppress dust nuisance and soil erosion pending any development thereof.*

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87. *PRIOR to any work commencing pursuant to this consent, a suitable fence shall be erected on the alignment of the eastern extremity of the approved work to ensure that no unauthorised works or disturbance occur within Lot 500.*
88. *The applicant shall add to the submitted Acid Sulfate Soil Management Plan (page 8), the following requirement:- 'Council will be informed within 7 days of any non-compliant results, particularly in relation to exceedances of the nominated range for each water quality parameter'.*
89. *In accordance with the provisions of condition 41(d) of Consent S96/135 for Stage 1 and as required by the National Parks and Wildlife Service in their letters dated 24 May, 2000 and 1 August 2000, the following requirements shall be complied with:-*
- i. Drainage swales/open space corridors rising east/west shall be replanted with suitable indigenous vegetation sourced locally to assist the east/west dispersal of wildlife.*
 - ii. A minimum of 300 Banksias are to be planted in each development lot in areas of public and private open space. These trees may include large (greater than 10cm DBH) individuals translocated from areas where their clearing is essential for the development design. These trees should be located in clumps and as far away from urban areas and lighting as possible.*
 - iii. All large mature Banksias, up to a maximum of 30 per management lot, in public or private open space, drainage swales etc, are to be marked and retained unless their removal is approved by Council in order to satisfy its requirements for open space and/or the proponents design of the development. Where such a tree is removed, a tree of similar size shall replace it, taken from an area where it would otherwise be lost, and translocated into an unconstrained area of the lot.*
 - iv. The proponent shall monitor and maintain as necessary any translocated trees for a period of one year from the date of consent in order to promote their survival.*
 - v. In respect of the north-western area, as identified in the Gunningah report and pursuant to the requirements of the National Parks & Wildlife Service, clearing is to be deferred for a period of four (4) years from 1 July 1999, or an alternative biological timeframe to be agreed between the applicant, NPWS and Tweed Shire Council.*
 - vi. In respect of the commercial area, clearing may commence within four years from 1 June 1999 in accordance with an agreed biological timeframe provided that adequate mitigation measures can be demonstrated to NPWS and Tweed Shire Council.*
90. *Compliance with the following condition imposed by the Department of Urban Affairs and Planning in granting concurrence to development in the 7(f) zone as follows:-*
- a. The proposal shall not provide for beach access for vehicles or pedestrians from either the carpark or from the public walkway / cycleway, unless such access is consistent with a management plan which covers the public foreshore areas and is*

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*agreed to by both the Council and the Department of Land & Water
Conservation.
be rescinded."*
