



Tweed Shire Council

Planning Committee Agenda

29 July 2005

Dear

NOTICE IS GIVEN that a Meeting of the **Planning Committee** will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on **Wednesday 3 August 2005**, commencing at **5.30pm**.

Submitted,

A handwritten signature in black ink, appearing to read 'J Griffin', written in a cursive style.

Dr J Griffin
General Manager

AGENDA

1. Confirmation of Minutes of the Planning Committee Meeting held XXX
2. Apologies
3. Disclosure of Interest
4. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
5. Access - Planning Matters
6. Reports through the General Manager
 - a. Reports from the Director Planning & Development
 - b. Reports from the Director Governance & Corporate Services
 - c. Reports from the Director Engineering & Operations
 - d. Reports from the Director Environment & Community Services
7. Confidential Matters - (exclude Press and Public)

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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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CONFIRMATION OF MINUTES

Minutes of the Meeting of the Planning Committee held 20 July 2005

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Minutes of the Meeting of the Tweed Shire Council Planning Committee held 20 July 2005 (DW 1237071)
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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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 [PD] Development Application DA04/1528 for a 76 lot Residential Subdivision (DIPNR DA 243-10-2004) at Lot 242 DP 1082837 No. 159 Overall Drive, Lot 243 DP 1082837 Overall Drive and Lot 183 DP 1034824, Overall Drive Pottsville

ORIGIN:

Development Assessment

FILE NO: DA04/1528 Pt2

SUMMARY OF REPORT:

A development application has been lodged with the Department of Infrastructure Planning and Natural Resources for a 76 lot subdivision. The subdivision will form the final stages of the Black Rocks Estate (Stages 13 & 14).

Pursuant to State Environmental Planning Policy No. 71 Coastal Protection, the Minister is the consent authority.

The application has been referred to Council for comment and general terms of approval under the Roads Act. These have been provided as part of the proposed conditions of approval.

The following is a discussion of the relevant issues as identified by Council staff specifically focusing on the proposed variation to the required 50 metre riparian buffer to Mooball Creek, and the location of the footpath to establish a clear delineation of public and private land. The applicant has requested that the batters from the filled land in addition to the public footpath be located within the 50 metre buffer.

Given the long history of the subject site, which has involved a LEP Amendment, subsequent re-zonings, and previous negotiations, the proposed variation is considered reasonable. Furthermore, allowing a batter and public footpath within the 50 metre buffer to Mooball Creek would achieve consistency with the previous stages of the estate.

Subsequently, the subject application is reported with a recommendation to endorse the proposal subject to the recommended conditions of consent.

RECOMMENDATION:

That a copy of this report and draft conditions be sent to the Director General of the Department of Infrastructure, Planning and Natural Resources for consideration as part of their report to the Minister.

REPORT:

Applicant: Black Rocks Estate Pty Limited
Owner: Black Rocks Estate Pty Limited
Location: Lot 242 DP 1082837 No. 159 Overall Drive, Lot 243 DP 1082837 Overall Drive & Lot 183 DP 1034824, Overall Drive Pottsville
Zoning: Part 2(a) Low Density Residential, 7(d) Environmental Protection (Scenic/Escarpment), 7(l) Environmental Protection (Habitat), and 7(a) Environmental Protection (Wetland and Littoral Rainforests)
Cost: \$6,000,000.00

BACKGROUND:

Black Rocks Estate was issued with its first approval in the mid 1990's. Since this time subsequent approvals have been issued for Stages 3 to 7, Stages 8 –10 and Stages 11 and 12 as recently as April 2002.

In July 2000 Council resolved to prepare Draft LEP No. 8 in respect of the residue land within Black Rocks Estate. A LES accompanied the Draft Plan, which was notified and then gazetted on 5 June 2003. A deed of agreement was executed between Tweed Shire Council & Black Rocks Estate. The deed required transfer of approximately 113 ha of high conservation land to Council at no cost to the community and the dedication and embellishment of 4ha of sports fields immediately west of the area zoned for residential purposes. The plan was made on 27 February 2004.

Following gazettal of the Plan the subject application was discussed with Council's Development Assessment Panel and the Master Plan requirement was waived under DCP No. 16.

Based on this advice the Development Application proceeded and was subsequently lodged with DIPNR in October 2004.

The subject site is bordered to the east by Mooball Creek, to the west by proposed public reserve / sports fields and to the south vacant rural land owned by the developer.

The current application now seeks consent for:

- Approval to remove vegetation under Tweed Shire Council Tree Preservation Order 2004;
- An extension of Overall Drive to the south;
- Creation of 68 residential lots with areas ranging from 714m² to 1109m²;
- Creation of one public reserve lot (2031m²) to satisfy demand for passive open space generated by the 68 lots;
- Creation of drainage reserves to accommodate the proposed infiltration basin (Lots 301 & 308). All stormwater runoff will be directed to the basin prior to discharging to Mooball Creek;
- Establishment of bush fire asset protection zones;

- Provision of all normal urban infrastructure including reticulated water supply, sewer, power, telephone and access roads;
- Filling of the land to the design flood level in accordance with the provisions of Tweed Shire Council's Development Control Plan No. 5;
- Dedication of the Mooball Creek foreshore buffer area as a public reserve in accordance with the terms of the Deed of Agreement (Lot 301);
- Dedication of the residue of the Black Rocks Estate land at no cost to Council in accordance with the terms of the Deed of Agreement (Lot 304);
- Construction of playing fields and an access road within the designated four hectare are (Lot 305);
- Haulage of approximately 250,000m³ of fill material to the site from Tagget's Quarry (located on Pottsville Mooball Road) via Kellehers Road;
- Creation of residue Lot 302.

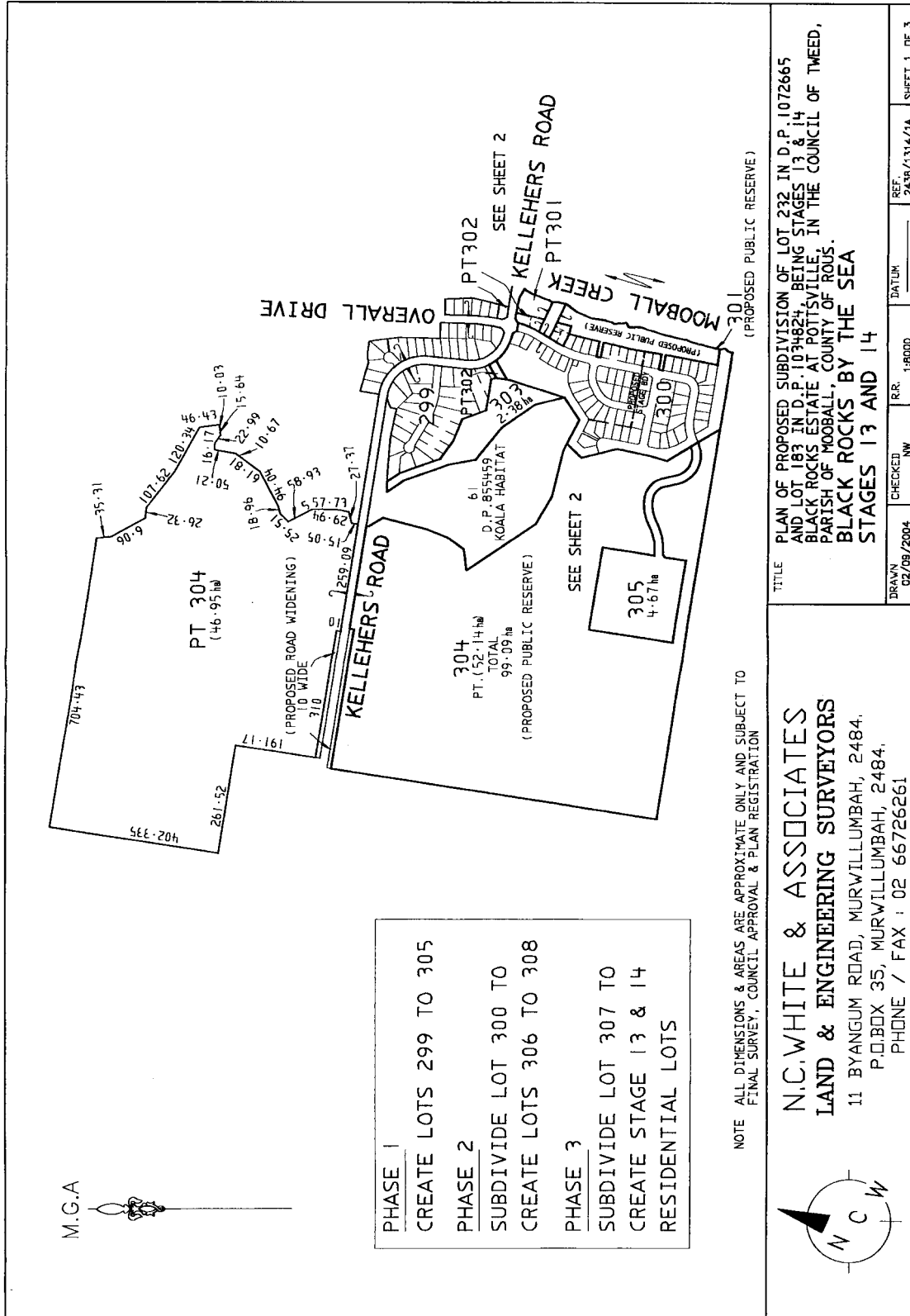
To facilitate transfer of Lots 301, 303, 304 and 305 in accordance with the terms of the Deed of Agreement the subdivision will be sequenced as follows: -

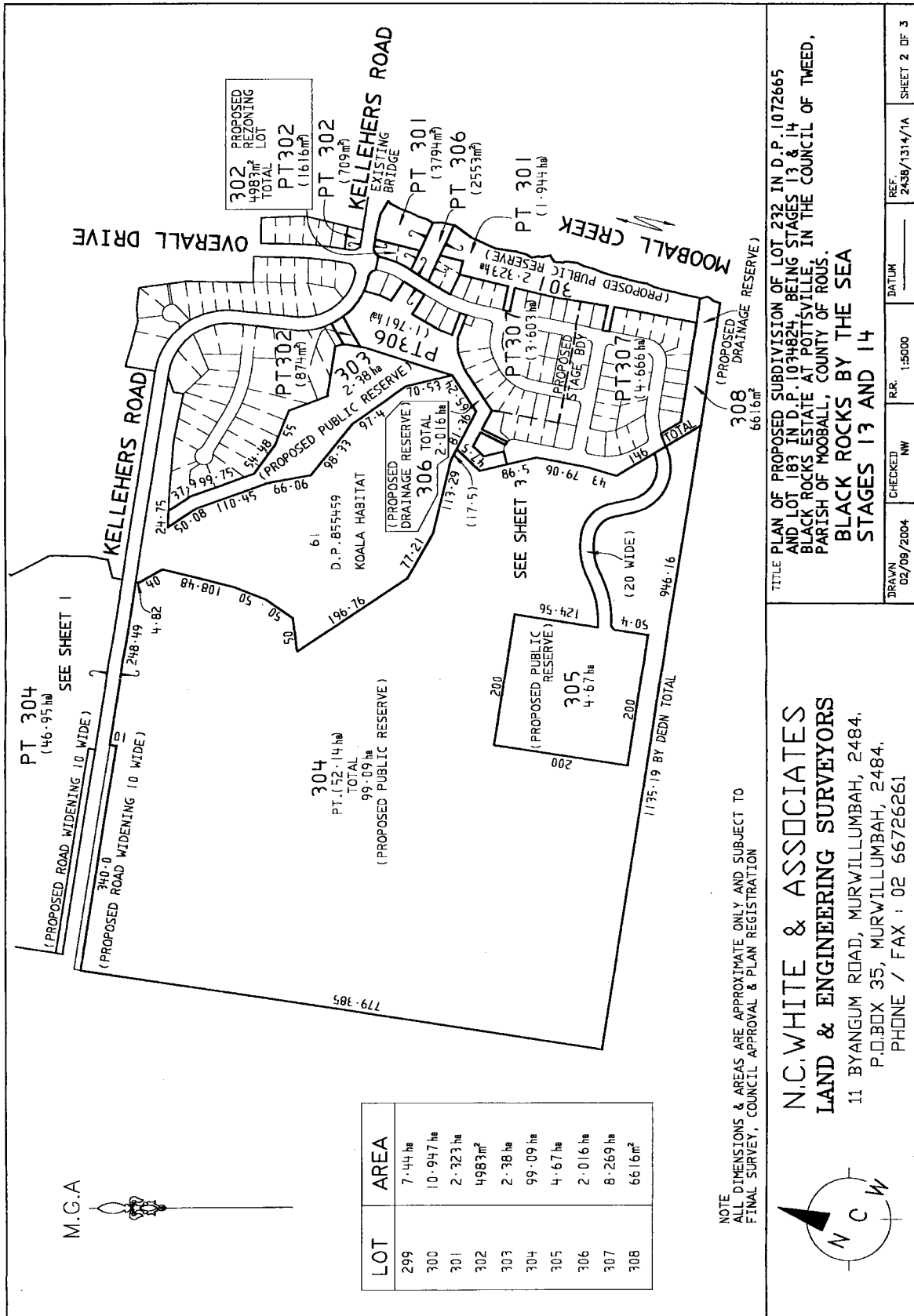
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| Phase 1 | Create Lots 299 to 305; |
| Phase 2 | Subdivide Lot 300 to create Lots 306 to 308; |
| Phase 3 | Subdivide Lot 307 to create Stages 13 & 14 for residential lots. |

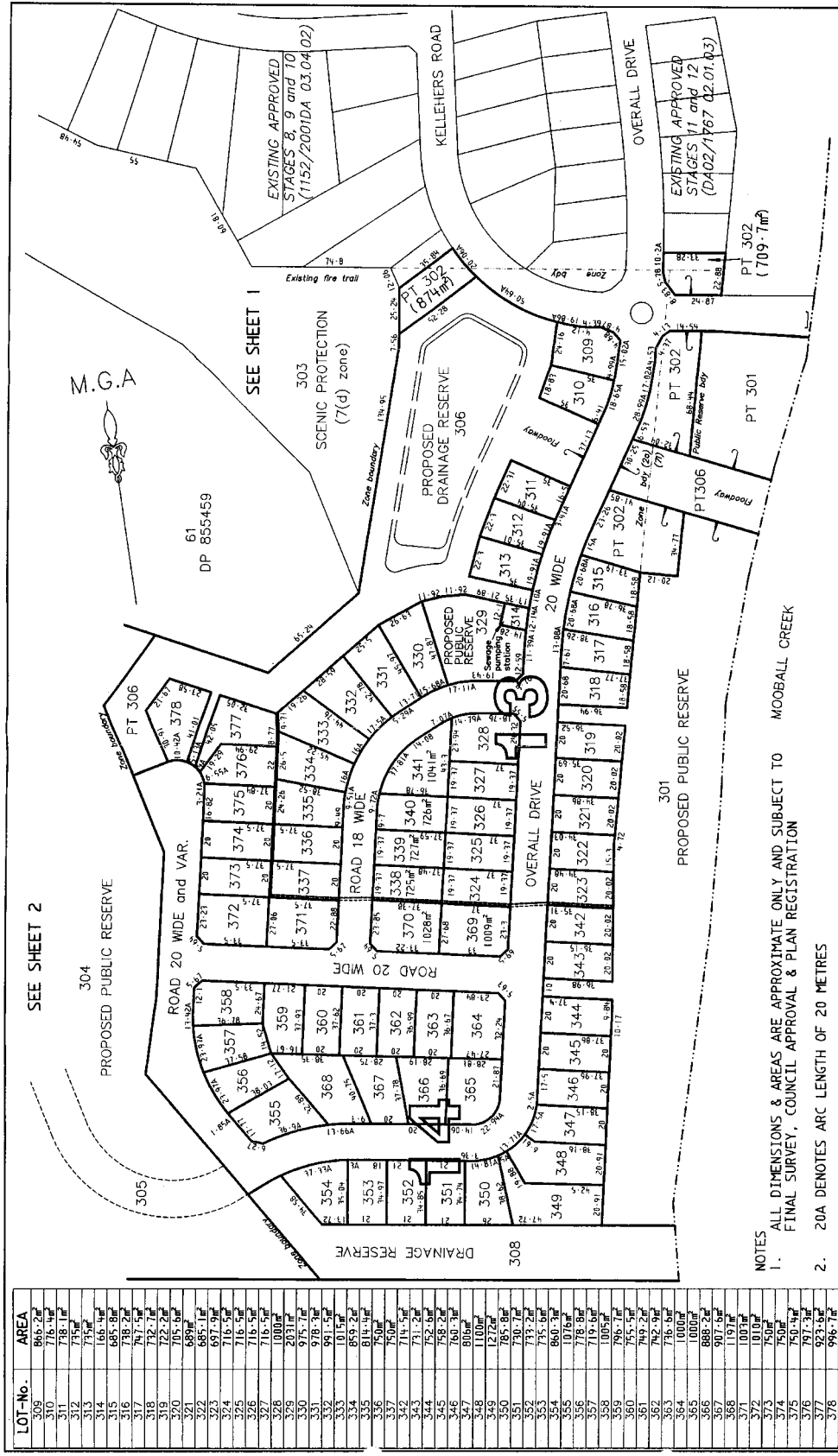
SITE DIAGRAM:



PLANS OF THE DEVELOPMENT:





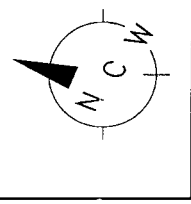


LOT-NO.	AREA
309	866.2m ²
310	716.1m ²
311	716.1m ²
312	715m ²
313	715m ²
314	166.4m ²
315	695.5m ²
316	715.2m ²
317	715.2m ²
318	715.2m ²
319	715.2m ²
320	705.6m ²
321	689m ²
322	685.1m ²
323	697.9m ²
324	716.5m ²
325	716.5m ²
326	716.5m ²
327	716.5m ²
328	1000m ²
329	671.1m ²
330	976.7m ²
331	981.5m ²
332	1015m ²
333	859.2m ²
334	814.4m ²
335	750m ²
336	750m ²
337	750m ²
338	711.2m ²
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SEE SHEET 1
 SEE SHEET 2
 M.G.A.
 DP 855459
 303 SCENIC PROTECTION (7(d) zone)
 PROPOSED DRAINAGE RESERVE 306
 PROPOSED PUBLIC RESERVE 301
 ROAD 20 WIDE and VAR.
 ROAD 18 WIDE
 ROAD 20 WIDE
 OVERALL DRIVE
 MOOBALL CREEK
 PROPOSED PUBLIC RESERVE
 EXISTING APPROVED STAGES 8, 9 and 10 (1152/2001DA 03.04.02)
 EXISTING APPROVED STAGES 11 and 12 (DA02/1767 02.01.03)
 PT 302 (787.4m²)
 PT 301 (709.7m²)
 PT 306
 PT 307
 PT 308
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NOTES
 1. ALL DIMENSIONS & AREAS ARE APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY, COUNCIL APPROVAL & PLAN REGISTRATION
 2. 20A DENOTES ARC LENGTH OF 20 METRES

N.C.WHITE & ASSOCIATES
LAND & ENGINEERING SURVEYORS
 11 BYANGUM ROAD, MURWILLUMBAH, 2484.
 P.O.BOX 35, MURWILLUMBAH, 2484.
 PHONE / FAX : 02 66726261



DATE	02/09/2004
CHECKED	NW
R.R.	1:2000
DATUM	
REF.	2438/1314/1A
SHEET	3 OF 3

TITLE PLAN OF PROPOSED SUBDIVISION OF LOT 232 IN D.P. 1072665 AND LOT 183 IN D.P. 1034824, BEING STAGES 13 & 14 BLACK ROCKS ESTATE AT POTTSVILLE, IN THE COUNCIL OF TWEED, PARISH OF MOOBALL, COUNTY OF ROUS.
BLACK ROCKS BY THE SEA
STAGES 13 AND 14

ISSUES FOR CONSIDERATION BY DIPNR

Riparian Buffer along Mooball Creek

Development Control Plan No. 16 – Subdivision provides criteria for a 50 metre riparian buffer along major streams including Mooball Creek, which adjoins the site. The plan specifies that these buffers should be dedicated to Council and placed under active management in accordance with a plan of management submitted by the applicant and approved by Council. Furthermore, the plan nominates that riparian buffer zones shall be revegetated and fences or other appropriate barriers provided to prevent transverse crossing of the riparian buffer.

This criteria is reinforced in the Tweed Coast Estuaries Management Plan, 2004 – 2008, which provides the following outcomes and actions for this section of Mooball Creek:

Development - Desired outcome

- *Development that is ecologically sensitive and has very limited impact on the estuary, its aesthetics and its health actions required*
- *Adhere to a minimum 50m buffer zone of riparian vegetation to remain intact on any new development site*
- *Wherever possible encourage dedication and rehabilitation of riparian zones with development applications*

Rehabilitation and Revegetation - Desired outcome

- *Generous riparian buffers of weed free plant communities native to the Tweed Coast*
- *Vegetation buffers that aid residential amenity, reduce erosion, provide fauna habitat and improve water quality*
- *Plant and animal communities that as near as possible have the diversity that existed prior to European settlement*
- *Native plant communities that are low maintenance and naturally resistant to invasion by weeds”*

The proposed application includes a public reserve along Mooball Creek with a minimum width of 50m. However about 12m width of this riparian buffer is used as a 1:4 slope fill batter for supporting adjacent elevated (above flood level) residential allotments. The riparian buffer also contains a 2.5m wide cycleway with a 1.2m berm. These non-riparian uses consume about 16m of the reserve, leaving only 34m available for riparian functions.

The plans submitted by the applicant are not consistent with the provisions of DCP16 or the “Tweed Coast Estuaries Management Plan, 2004 - 2008 as a third of the 50m reserve is consumed by other land uses.

This issue was initially forwarded to DIPNR as an area of concern and subsequently the applicant requested a meeting with Council staff to detail the history of this application.

The applicant has provided the following justification for the variation:

"I understand that Mike Rayner and Noel Hodges agree that because of the history of this matter (particularly the Local Environmental Study, Local Environmental Plan Amendment No. 8 and Deed of Agreement) the proposed 50m foreshore reserve including batters and cycleway is acceptable, notwithstanding the provisions of Development Control Plan No. 16 (introduced on 1 July 2003 which was after the zone boundary location and land transfers were negotiated) which apparently requires 50m of foreshore reserve excluding any infrastructure. We would like to reiterate our position on this matter and its history as follows:

- 1. Earlier stages of Black Rocks Estate (which commenced in 1996) have been approved by Council with a 50m foreshore reserve which includes the batters and cycleway/walkway (these stages have been constructed);*
- 2. Geolink Pty Ltd were commissioned by Tweed Shire Council in the year 2000 to prepare a Local Environmental Study to inform Draft Local Environmental Plan Amendment No. 8 which applies to the Stages 13 and 14 site*
- 3. During the Local Environmental Study/Draft Local Environmental Plan exhibition period (in late 2002), several State Agencies sought clarification of the proposed interface between the residential lots and the foreshore reserve;*
- 4. Subsequently, it is understood that discussions were held with these agencies and Council officers during which the proposed batter arrangements and cycleway location were discussed and agreed;*
- 5. Following these discussions and at the request of Council's Co-ordinator of Strategic Planning, on 5 August 2003 Ardill Payne & Partners on behalf of Black Rocks Estate Pty Ltd submitted a letter and typical cross section to Tweed Shire Council clearly showing the batter and cycleway within the proposed 50m foreshore reserve;*
- 6. Following the discussions and documents submitted on 5 August 2003, at its meeting on 5 November 2003 Council considered a report on the Draft Local Environmental Plan and resolved that the Draft Plan (with amendments) be referred to the Minister to be made. A Deed of Amendment was entered into on 9 December 2003 to reflect the changes made to the Draft Plan;*
- 7. The location of the easterly 2(a)/7(l) zone boundary (ie. foreshore) was agreed and approved on the basis that the batter and cycleway would be within the foreshore reserve as reflected in the cross section referred to at Paragraph 5. It was on that basis that Black Rocks Estate Pty Ltd agreed to the location of the western 2(a)/7(l) zone boundary together with agreement to the transfer to Council, at no cost, of 113 hectares of high conservation value land west of the residential area.*

That is to say, had Black Rocks Estate Pty Ltd been advised that the 50m foreshore reserve must exclude any batter/cycleway it would not have agreed to the current zone boundary locations and land transfers. It would have insisted, as part of a negotiated agreement, that the western zone boundary be located at least 15m further to the west to avoid a significant reduction in lot yield.

In summary, we request that the above information be contained and/or summarised in any report to Council's Administrators and that it is emphasised that the current development application is entirely consistent with the negotiated outcomes reflected in the Local Environmental Study, Local Environmental Plan Amendment No. 8 zone boundary locations and the Deed of Agreement as amended."

Upon review of Council's historical files it was discovered that all plans associated with the LEP Amendment detailed the proposed batter and footpath to be within the 50 metre batter. Furthermore, discussion with Council's Coordinator Strategic Planning confirmed that it was always intended for infrastructure such as batters and community footpaths to be located within the 50 metre buffer.

Subsequently, as a result of this history and the negotiated outcomes for this Estate the proposed variation to DCP 16 in this instance is recommended for conditional consent.

One of the recommended conditions of consent is to ensure that the footpath is located immediately adjoining the residential blocks to create a distinct delineation between public and private land. This will ensure the batter will be seen by residents as public land rather than being consumed by individual land owners

The recommendation to vary from DCP 16 – Subdivision and the Tweed Coast Estuaries Management Plan in relation to the riparian buffer will not set an undesirable precedent, as this subdivision is the final stage of the overall development scheme. The development has been through a LEP Amendment and subsequent negotiation for land dedications. If Council had previously indicated that no footpath or batter could be placed in the 50m riparian zone the entire re-zoning would have been changed to reflect the additional space required westward of the current zone boundary.

Subsequently, the proposed variation in this instance is considered justified.

Geotechnical / Earthworks/Filling

Currently the site is vacant with elevations ranging from RL 1.0 AHD to RL 2.0 AHD within the area to be developed. A sand ridge is located to the west of the site which ranges from RL 6.0 AHD. The area has been previously cleared of vegetation and comprises mainly of open grasslands and remnant stands. The land has historically been used for cattle grazing and dairy farming, although the land has not been used for grazing purposes within the last ten years.

The application states that all filling of the proposed residential allotments will be contained within the 2(a) Residential zone, with the exception of the allotments adjoining the proposed reserve fronting Mooball Creek. The application shows fill batters from the residential allotments extending into the riparian buffer area with a max slope of 1 vertical: 4 horizontal.

A small catchment drains to Mooball Creek through a man made drain along the southern boundary of the proposed development. The applicant proposes that the drainage path be retained throughout the bulk earthworks and urban development.

All filling, topsoiling and grassing of proposed Stages 13 & 14 should be completed prior to the release of any residential allotments in Stages 9 and 10. This will ensure the amenity of the residents within these stages will not be adversely affected by the filling works or nuisance caused by heavy haulage trucks. Appropriate conditions are recommended in this regard.

The proposed earthworks as detailed above are considered to be in accordance with DCP 16 – Subdivision in terms of earthworks. Appropriate conditions of consent are recommended to ensure bulk earthworks will be carried out as one operation and the road and civil construction are to be conducted in stages.

Existing Title Restrictions – Deed of Agreements

There are no existing title restrictions as listed within Council's GIS system. However, a deed of agreement exists between Tweed Shire Council and Black Rocks Estate Pty Ltd dated 5 June 2003 and subsequently amended on 9 December 2003.

A brief of the requirements include the following;

- Clause 4.3 – developer to prepare plan of subdivision to dedicate two areas as public reserve and adequately fence the public reserve areas.

A condition of consent has been included in the recommended conditions for dedication and fencing of the land.

- Clause 4.3iii(b) – dedicate Koala food trees prior to release of the subdivision certificate for the first residential stage.

The amelioration measures recommended in the Koala assessment by James Warren & Associates has been included as a condition.

- Clause 4.3iii(c) – dedicate and embellish 4 ha playing fields prior to first stage residential release.

A condition of consent has been included, stating that the playing fields are to be constructed and embellished prior to the release of the subdivision certificate for the first residential stage.

Staging

Staging of the engineering infrastructure must be such that: -

1. Each stage is viable in its own right
2. All external connections (to roads and other service infrastructure) are provided for the current and future stages.
3. For each stage all downstream stormwater and stormwater treatment infrastructure is provided and sized for ultimate development.

Source of Fill Material

The source of the fill material is proposed from Taggets Quarry (Lot 6 DP 840977) located on Pottsville Mooball Road, approximately 2.5 km west of the subject site. The haulage of material is proposed along Kellehers Road to the site. Kellehers road is currently partially formed with no seal.

Previous stages of the Black Rocks Estate have been filled using Taggets Quarry and the same haulage route. This includes a current construction approval for bulk earthworks for stages 8, 9 & 10. The site is proposed to be filled to RL3.14 AHD as specified within the recent flood impact assessment prepared by WBM Oceanics titled 'Black Rocks by the Sea Mooball Creek Flood Impact Assessment, dated August 2004. The application advises that approximately 250,000m³ of fill will be required and the quarry has sufficient capacity to meet the fill requirements.

Heavy Haulage

Fill material is to be hauled from the quarry along the SEPP 14 boundary to unformed Kellehers Road, south into Overall Drive to the proposed subdivision site. The application states that a safe haulage speed is to be promoted to ensure minimal disruption to adjoining properties and other road users during haulage operations. The proposed haulage route is located to avoid haulage vehicles travelling through the Pottsville town centre via Coronation Ave and Overall Drive or the Tweed Coast Road to access the site. Heavy haulage will be required for the transportation of fill to the site.

Road Network / Horizontal Alignment

The proposed urban subdivision requires the extension of Overall Drive. Access to the sports fields is from the Overall Drive extension, plus a number of residential streets are proposed with the following specifications;

Road No.1 (Overall Drive) is classed as a neighbourhood collector road. The applicant recommends a 20m road reserve, 12m pavement width, (which is consistent with DCP 16), upright kerb and a 1.2m concrete footpath on both sides.

Road No. 2 is classed as an access road. The applicant proposes Road No. 2 to have a 18m road reserve, 9m pavement width (consistent with DCP 16), roll top kerb and no footpath (not consistent with DCP 16, see comments below).

Roads No. 3 & 4 is classed as an access road. The applicant proposes Roads Nos 3 & 4 to have a 20m road reserve, 9m pavement width (consistent with DCP 16), roll top kerb and no footpath (not consistent with DCP 16, see comments below).

Sports Field Access Road – the applicant proposes a rural class B road with a 20m road reserve width, 6 metre seal on 8.6 metre formation, with no kerb and footpath.

All new urban roads under DCP 16 require upright barrier kerb. Footpaths are to be provided on the access roads Nos. 2, 3 & 4. These requirements have been conditioned.

Road Vertical Alignment

Long sections have been provided for the proposed roads. The long sections comply with DCP 16, the minimum vertical curve being 0.3%. All roads are relatively flat, due to filling of the site.

Road Typical Cross Sections

Typical cross sections have been provided with the application. The cross sections comply except for the use of roll top kerb & gutter and no footpath. This has been included as a condition of consent.

Intersections

Four (4) new intersections are proposed within the subdivision. All intersections comply with Austroads standards.

Cul-de-sac arrangements

No more than 15% of lots to front a cul-de-sac. 6 lots out of 68 front the single proposed cul-de-sac proposed (9%). Maximum cul-de-sac length is 100m serving no more than 12 dwellings with clear view for full length of cul-de-sac. The proposed cul-de-sac is 100m long and serves 6 dwellings on a straight and level alignment.

Bus routes / Shelters

DCP 16 requires the bus route / stops to be located at an average spacing of 300 – 400m. The plans provided do not address bus routes or provision of bus shelters, although the roads are designed to accommodate a bus route. Therefore a condition has been included for the provision of a bus route and shelters.

Footpaths / Cycleway

The cycleway network is located along the foreshore, connecting with the existing cycleway to the north. Footpaths are to be constructed on all urban roads. The cycleway is to extend from the Black Rocks Estate to the sports fields.

Traffic Generation

The development application states that the additional traffic generation created by proposed stages 13 & 14 of the Black Rocks Estate will exceed the traffic capacity of Overall Drive. Overall Drive presently services established and vacant residential allotments within both Black Rocks and Pottsville Waters. The anticipated impact on Overall Drive was identified in the Black Rocks Local Environment Study (1992). It was proposed in the LES that an alternative access to the site be provided by the construction of a 2 lane vehicular bridge connecting Overall Drive directly to the Coast Road. The Black Rocks Bridge has been completed and opened to traffic in 2003.

The applicant states that it is expected that a large percentage of residents within stages 13 & 14 would use the bridge. Also the opening of the Pacific Highway bypass in 2002 has reduced the amount of traffic using the coast road.

Stages 13 & 14 propose 78 allotments, equating to a traffic generation rate of 780 vehicles per day. Supplementary information to the engineering infrastructure report states a traffic report prepared by TTM Traffic Engineering concludes that the extra traffic generated by the development is unlikely to have an adverse impact on Overall Drive.

Pedestrians

A special condition of consent has been included to address footpaths on all proposed roads and for the cycleway to be constructed on top of the batter in the Mooball Creek reserve.

Stormwater Drainage

Allotment drainage / IAD - allotments will grade to road at a minimum fall of 1%.

Road Drainage Network - The proposed subdivision landform is generally flat with minimum fall in allotments for local drainage to adjacent roads and minimum fall for kerb and gutter drainage in local streets. The Street system has a number of local low points, which have overland flow path exits to Mooball Creek or unfilled land to the west.

The minor piped system delivers runoff to an infiltration basin at the north of the site. This basin is not offline as is normally required (to prevent remobilisation of sediments in larger than Q3months events), however the applicant has provided supporting information demonstrating that remobilisation will not occur. The infiltration basin overflows to the east and discharges to Mooball Creek via an overland flow floodway.

Apart from the scenic protection area adjacent to the infiltration basin and a small raised dune area to the south, the land to the west of the proposed residential area is low, flat and except for the proposed playing fields will remained unfilled. Between the proposed residential area and the playing fields, surface flow across unfilled land will not be substantially changed. The access to the playing fields will require local transverse drainage culverts where it crosses overland flow paths.

The proposed infill and linking drain works shown on "Figure 1 Proposed Drainage Network Stages 13 & 14" contained in "Appendix A James Warren & Associates 22 February 2005 – Black Rocks by the Sea: Stages 13 & 14 Infilling of Drains" and on Ardill Payne & Partners Figures 3a, 8a and 8b is supported as a means of rationalising the drainage of the area west of the residential subdivision and as a means of minimising mosquito breeding habitat.

The proposed playing field is to be filled to RL 2.0 which is in accordance with Council's specification (1m below Q100).

Stormwater Quality Management

Construction Phase - The proposed erosion and sediment control is compliant with Council's Specification D7 – Stormwater Quality and Section 5.5 of the Tweed Urban Stormwater Management Plan. A standard condition is required to ensure erosion and sediment control is in accordance with the Tweed Urban Stormwater Management Plan.

Operational Phase - A treatment drain system is proposed consisting of removal of gross pollutants, coarse sediment and hydrocarbons in GPTs followed by removal of fine sediments and other nutrients in a downstream infiltration basin. The infiltration basin is sized to accommodate nutrients in a downstream infiltration basin. The infiltration basin is sized to accommodate Q3month storms and infiltrate into the ground in 6.4 hours.

Houses constructed on the proposed subdivision are required to comply with BASIX provisions that come into effect on 1 July 2005. BASIX will require residences to fit rainwater tanks that will further enhance treatment and attenuation of stormwater flows. The resulting stormwater treatment is considered to comply with the treatment objectives required in Table 4.23 of DCP 16, the provisions of Section 5.5 of the Tweed Urban Stormwater Management Plan and the relevant section of Clause 52 of Tweed LEP 2000.

The combination of the infiltration basin (which also acts as a detention basin and rainwater tanks will attenuate stormwater flows to more closely mimic natural (pre development) flows as required by Section 4.2.3 Criteria in DCP16.

The proposed treatment of stormwater runoff will ensure that such runoff will not contaminate the groundwater system. Standard condition PCC0230 is required to ensure stormwater treatment is in accordance with the *Tweed Urban Stormwater Management Plan*.

Services / Utilities

Water Supply - reticulated water is to be provided to all lots by extending an existing 100mm water main from earlier stages of the Black Rocks Estate to proposed stages 13 & 14 to service the allotments. The application states that the design of water reticulation for previous stages of the estate has made provision for proposed stages 13 & 14. A reticulated water main is also to be extended from the proposed residential area to the sports fields, for the purpose of providing an automated sprinkler system.

Sewer - The engineering infrastructure report provided with the development application states that all sewage generated by the development is to be conveyed to a proposed new pumping station located adjacent to the proposed park. The sewage is to be pumped to an existing manhole located just south of the roundabout at the northern end of the development. The existing sewerage system for earlier stages of the estate has been designed to cater for additional demand needed for stages 13 & 14 of black rocks.

Electricity - Electricity and Telecommunication utilities are required to service the proposed subdivision.

Waste (garbage) service / Emergency Services - The subdivision can be serviced by a garbage truck and emergency services.

Environment / Amenity

Landscaping - A landscaping plan for the development, which includes the sportsfields, parks and streetscape is required. This has been conditioned.

Fauna & Flora & Koala Assessment

A number of recommendations have been suggested in the Flora & Fauna Assessment prepared by James Warren & Associates dated September 2004 for stages 13 & 14 of development. These recommendations are included in the recommended conditions of consent.

Natural Hazards

Flooding - In 1992 WBM Oceanics were commissioned by the Pottsville Development Corp to provide a flood study of the area. Based on this study the design flood level for the residential area is RL 3.0 AHD. A new assessment has been provided this development application for stages 13 –14 and associated infrastructure. The new assessment prepared by WBM Oceanics titled 'Black Rocks by the Sea Mooball Creek Flood Impact Assessment, dated August 2004 has considered the proposed filling for stages 13 & 14 and the new Black Rocks Bridge.

Filling the site to Council's adopted minimum level 3.0m AHD as specified within Development Control Plan No 5 is required. A condition of consent has been included to address the fill level.

Comments from Council's Environmental Health Officer

Original concern was expressed with relation to contamination, acid sulphate soils, and sediment and erosion control. Through discussion with the applicants Council received revised documentation that detailed additional testing as requested. All outstanding issues have now been satisfied and subsequently Council's Environmental Health Officer has recommended conditional consent.

Summary

The proposed subdivision has required careful assessment against the nominated criteria in Councils Policies specifically DCP 16. It is concluded that despite minor departures the proposed subdivision is consistent with the intent of DCP 16 and will ensure the finalisation of a subdivision that has been ongoing since the mid 1990's.

Draft Conditions of Consent

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Sheets 1-3 prepared by NC White and Associates and dated 2/9/2004, except where varied by these conditions. [GEN0010]
2. 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. [GEN0030]
3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual. [GEN0040]
4. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and 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
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)
 - the approved Traffic Control Plan
 - the relevant maintenance manuals (eg. G.P.T's, water pump station)

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. [GEN0140]

5. All works shall comply with the Acid Sulfate Soil Management Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004.

6. All works shall comply with the Erosion and Sediment Control Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, June 2005.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. 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, and submitted to Council, prior to issue of the Construction Certificate. 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.

[PCC0040]

8. 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 based on 1% of the value of the works (minimum \$1,000).

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 the Director, Development Services.

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

[PCC0080]

9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

10. Permanent Stormwater Quality Treatment

(a) 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 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that 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.

- (b) 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 (eg. Rainwater tanks). 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) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
 - (i) Permanent stormwater treatment devices are to be in general accordance with Gilbert and Sutherland "Stormwater Management and Assessment Plan for Proposed Residential Development, Final Stages 13 and 14 Black Rocks by the Sea" dated August 2004.

[PCC0230]

11. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

12. Erosion and Sediment Control During the Construction Phase of Development
- (a) 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 (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (c) The Erosion and Sediment Control Plan shall be in general accordance with Gilbert and Sutherland "Amended Erosion and Sediment Control Plan for Proposed Residential Development, Final Stages 13 and 14 Black Rocks by the Sea" dated March 2005.

[PCC0320]

13. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-

- (a) Construction of vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems. All kerb & gutter is to comply with the requirements of Development Design Specification D1.
- (b) Footpaths on proposed roads No. 2, 3 & 4 are to be provided in accordance with DCP 16 - subdivision manual - Table 4.23.2 and Development Design Specification D1 - Table D1.7.
 - i. The cycleway is to be located on top of the batter adjoining proposed residential allotments.
 - ii. The cycleway is to continue from the Black Rocks estate through to the sports fields.
- (c) Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.
- (d) Provision of a bus route through the site with designated bus stops and shelters to the satisfaction of the Principle Certifying Authority.
- (e) Drain infill and linking drain works are to be provided in accordance with the following;
 - i. "Figure 1 Proposed Drainage Network Services 13 & 14" contained in "Appendix A James Warren & Associates 22 February 2005 - Black Rocks by the Sea: Stages 13 & 14 Infilling of Drains" and,
 - ii. Drawing numbers titled Figure 3a, 8a and 8b, prepared by Ardill Payne & Partners contained in the "Supplementary Information to Engineering Infrastructure Report."
- (f) The entry point to the sports field access road from Overall Drive is to include the placement of kerb and gutter around the 90 degree bend at Chainage 590, and the transition is also to include a standard concrete driveway and lay back to connect with the sports field access road. Speed humps are to be provided every 100 metres along the sports field access road.
- (g) The fire access trail is to be shown on the construction certificate application and comply with the 'Planning for bushfire protection guidelines 2001.'

14. Staging of the engineering infrastructure must be such that: -
 - (a) Each stage is viable in its own right.
 - (b) All external connections (to roads and other service infrastructure) are provided for the current and future stages.
 - (c) For each stage all downstream stormwater and stormwater treatment infrastructure is provided and sized for ultimate development.

15. Prior to the issue of a construction certificate a landscaping plan is to be submitted providing planting and landscaping detail for the park and streetscape in accordance with the provisions of Development Design Specification D14 - Public Landscaping Space.

16. Prior to the issue of a construction certificate application a 'Mooball Creek Riparian Zone Management Plan' must be submitted to and approved by Council. The plan must provide the following;
 - (a) 50m minimum reserve width reserved along Mooball Creek for riparian buffer (this can include a footpath and the batter form the filled land).
 - (b) Planting schedule with a planting and maintenance program for the riparian buffer to be revegetated so that as near as possible it will have the species and diversity that existed prior to European settlement.
 - (c) The above mentioned program is to be completed prior to the release the subdivision certificate for any residential allotments.
 - (d) Ensure that establishment, maintenance and replacement of the vegetated area by the proponent is continued for 12 months after Council certifies that the whole riparian zone has been satisfactorily revegetated.
 - (e) Controlled access points to Mooball Creek are to be supplied only at locations of existing gaps through the mangrove fringe.
 - (f) The riparian buffer is to be fenced and managed to limit pedestrian access to controlled points that do not detract from the riparian buffer.
 - (g) Pathways / cycleways are limited to the western edge of the riparian buffer.
 - (h) The cycleway is to be provided on the top of the batter.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

17. 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.

[PCW0020]

18. 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 the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

19. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

Note: All cut and or fill must comply with DCP 47. The top of any battered cut, toe or battered fill and the face of any retaining wall structure supporting cut or fill cannot be closer that 900mm to the boundary where the overall height at any point exceeds 500mm.

[PCW0040]

20. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

21. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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.

[PCW0190]

22. 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.
- [PCW0270]
23. Erosion and sediment controls shall be placed prior to the commencement of works and maintained in effective condition until the completion of works.
- [PCWNS01]

DURING CONSTRUCTION

24. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.
- [DUR0020]
25. No soil, sand, gravel, clay or other material shall be disposed of off the site.
- [DUR0030]
26. 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 1742.3-2202 (Manual of 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.
- [DUR0040]
27. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR0080]
28. 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.
- [DUR0150]
29. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
- [DUR0200]
30. 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:-

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) Compliance Certificate - Sewerage Pump Station
- (e) 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
- 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 Management Act 2000 to be certified by an "accredited certifier".
- [DUR0360]
31. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) 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.
 - (b) That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
 - (c) That the pavement layers have been compacted to RTA specifications.
 - (d) That site fill areas have been compacted to the specified standard.
 - (e) That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - (f) That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- [DUR0370]
32. 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 the Director, Development Services.
- [DUR0380]
33. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.
- [DUR0400]
34. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
- [DUR0430]
35. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
- [DUR0550]
36. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- No filling of any description is to be deposited, or remain deposited, within adjacent properties.
- [DUR0560]

37. Inter allotment drainage shall be provided to **all** lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR0580]

38. (a) Dedication of the proposed drainage reserve at no cost to Council.
(b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.

[DUR0600]

39. The earthworks shall be carried out in accordance with AS 3798, "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.

[DUR0620]

40. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant in accordance with Appendix B, 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. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.

[DUR0630]

41. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond 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.

[DUR0720]

42. 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.

[DUR0730]

43. The water quality control pond shall be fully fenced in accordance with the requirements of AS1926 for children less than five (5) years of age.

[DUR0810]

44. (a) The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- (b) An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified.

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.

[DUR0820]

45. 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.

[DUR0850]

46. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0860]

47. 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.

[DUR0870]

48. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DUR0880]

49. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

50. 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.

[DUR0910]

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

[DUR0920]

52. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations. [DUR0930]
53. The burning of builders waste on site by open fire is prohibited. [DUR0940]
54. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development. [DUR0980]
55. All subdivisions are to comply with DCP39 which requires 80% of all lots to achieve a five star rating with the remainder achieving a minimum of three or four stars. [DUR1010]
56. 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 the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
57. Chemicals and fuels shall be stored in a flood free area and shall not be permitted to percolate or discharge to any watercourse.
58. Water quality monitoring shall be undertaken in accordance with Part 1.8 of the Acid Sulfate Soil Management Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004 and Part 4.8 of the Erosion and Sediment Control Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004.
59. Vegetation (particularly riparian vegetation) shall be lopped, cut or removed only as strictly necessary to construct the development.
60. Water shall not be permitted to discharge or flow from the infiltration basin unless suspended solids are below 50mg/L and pH falls between 6.5 and 8.5
61. All residential allotments are to be filled to a minimum level of 3.0m AHD. The eastern most 12 metres of residential allotments adjoining the Mooball Creek riparian zone may be lower than 3.0m AHD to accommodate fill batters or terraces.
62. Noise from the loading or transport of fill material to and from the development site shall not be permitted to detrimentally impact upon the amenity of any residential premises. [DURNS01]

USE

63. Except as may be expressly provided in the approval, the approval holder must comply with section 120 of the Protection of the Environment Operations Act 1997 prohibiting the pollution of waters.

[USE0200]

64. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services.

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

65. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 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:

Water: 68 lots @ \$4230	\$287,640
Sewer: 68 lots @ \$2634	\$179,112

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 Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

66. Section 94 Contributions
- (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.

- a. Tweed Road Contribution Plan: \$229,159
 S94 Plan No. 4 (Version 4.0)
(Sector 8a)

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)
- \\$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: \$20,196
 S94 Plan No. 6
- c. Shirewide Library Facilities: \$46,784
 S94 Plan No. 11
- d. Bus Shelters: \$1,768
 S94 Plan No. 12

e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$8,908
f.	Community Facilities (Tweed Coast) (South Coast) S94 Plan No. 15	\$39,712
g.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$14,620
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$23,447.08
i.	Cycleways S94 Plan No. 22	\$10,880
j.	Regional Open Space (Structured) S94 Plan No. 26	\$80,036
k.	Regional Open Space (Casual) S94 Plan No. 26	\$15,028

[PCC0050/PSC0005]

67. 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:

(a) Easements for sewer, water supply and drainage over **ALL** services on private property.

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.

[PSC0020]

68. 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.

[PSC0040]

69. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.

[PSC0060]

70. 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.

[PSC0070]

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

- (a) The following information must accompany an application:
- 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 in accordance with the current Fees and Charges applicable at the time of lodgement.
 - relevant development consent
 - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
 - 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)
 - a certificate of compliance from the relevant water supply authority (where applicable)
 - for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - 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
 - security given to the consent authority with respect to the completion of the work
 - Work as Executed Plans for **ALL** works
- (b) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (c) 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.

[PSC0090]

72. 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:

- (a) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;

(b) the plans accurately reflect the Work as Executed.

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

- [PSC0100]
73. Prior to the issue of a **Subdivision Certificate** a defect liability 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.

[PSC0110]

74. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director, Engineering & Operations.

- Tiger Patch patch liner;
- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

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

[PSC0140]

75. 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.

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.

[PSC0150]

76. 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 Management Act 2000 to be certified by an Accredited Certifier.

[PSC0160]

77. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

78. (a) The production of written evidence from Country Energy certifying that reticulation of underground electricity (residential) has been completed; and
(b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

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

- (a) 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.
(b) 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.
(c) 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 or modified only with the consent of Council.

[PSC0210]

80. 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 the Director Planning and Environment.

[PSC0220]

81. (a) **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.
- (b) 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.

[PSC0230]

82. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No DA04/1528 have been complied with.

[PSC0010]

83. The measures and recommendations outlined in the Koala Management Plan prepared by James Warren & Associates dated September 2004 are to be implemented to the satisfaction of the Principle Certifying Authority, prior to the release of the subdivision certificate for any residential allotments. The measures and recommendations include;

- (a) A Koala exclusion fence is to be erected between the residential 2(a) zone and the environmental protection zone. The fence is to prevent Koalas from entering the residential area. Details of the fence are to be submitted to the principle certifying authority for approval.
- (b) A koala crossing is to be incorporated into the sportsfield access road. Signage should include Koala warning signs.
- (c) Koala feed trees to be lost are to be replanted at a ratio of five (5) trees to everyone one (1) tree removed. The trees are to be planted in suitable areas on the western side of the Koala proof fence.

84. The two areas marked public reserve as specified in the Deed of Agreement, (Annexure B1 & B2), signed between Council and the Black Rocks Estate Pty Ltd dated 4 June 2003, are to be dedicated to Council in accordance with the above mentioned Deed of Agreement. Both the public reserve areas are to be dedicated to Council before the release of the subdivision certificate for Stage 1.

The public reserve areas are to be adequately fenced. An inspection of the fencing is to be carried out by Council Officers prior to release of the subdivision certificate for Stage 1.

85. The playing fields and connecting access roads and pathway / cycleways are to be completed prior to the release of the subdivision certificate for any residential allotments. The playing fields are to be provided in accordance with;

- (a) Provisions of the deed of agreement dated 5 June 2003 and amended 9 December 2003 and
- (b) The standards and criteria in DCP 16 Section 4.3.3 and
- (c) The provisions of Development Design Specification D14 - Public Landscaping Space.
- (d) The playing fields are to be filled to a minimum level of 2.0m AHD.

86. Filling, topsoiling and grassing of proposed Stages 13 & 14 is to be completed prior to the release of any residential allotments in Stages 9 and 10.

[PSCNS01]

GENERAL TERMS OF APPROVAL UNDER S138 OF THE ROADS ACT (Consent to (a) erect a structure or works (b) dig up or disturb the surface of a public road or (c) remove or interfere with a structure work or tree on a public road or (d) pump water into or (e) connect a road to a classified road)

1. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
2. 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, and submitted to Council, prior to issue of the Construction Certificate. 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.
3. 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 the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

OPTIONS:

1. As per the recommendation.
2. Advise the Minister that Council does not support the application.
3. Advise the Minister of alternative or additional issues and/or draft conditions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

The proposed variation to DCP 16 – Subdivision in relation to the riparian buffer is not considered to set an unwarranted precedent, as this subdivision is the final stage of the overall development scheme. The development has been through a LEP Amendment and subsequent negotiation for land dedications. If Council had previously indicated that no footpath or batter could be placed in the 50m riparian zone the entire re-zoning would have been changed to reflect the additional space required westward of the current zone boundary.

CONCLUSION:

The issues raised in this report are to be forwarded to the Director General of the Department of Infrastructure, Planning and Natural Resources to be considered as part of their report to the Minister.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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2 [PD] Draft Tweed Local Environmental Plan 2000, Amendment No 65 - Restoration of Lost Dwelling Entitlements - Lot 1, DP 129075, Tyalgum Road, Eungella

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000/65 Pt1

SUMMARY OF REPORT:

Council on 3 November 2004 resolved to prepare draft LEP, Amendment No 65 to restore a dwelling entitlement on land described as Lot 1 DP 129075 Tyalgum Road, Eungella lost as a result of the widening of Tyalgum Road in 1994.

The draft Plan was prepared to re-instate both a dwelling entitlement for Lot 1 DP 129075 and those of other unidentified sites having lost a dwelling entitlement under similar circumstances.

The draft Plan was publicly exhibited for 28 days from Wednesday 15 June 2005. Five (5) submissions were received during the exhibition period from State Government Departments or Agencies. One (1) submission, in support of the Amendment, was received from the general public.

Submissions from the State Government Departments/Agencies did not identify any issues or concerns with the draft Plan. However, DIPNR advised that whilst the draft Plan would best resolve the issue of lost dwelling entitlements generally, Council's initial resolution in accordance with section 54 of the Environmental Planning and Assessment Act 1979 is considered ambiguous in that it does not specifically resolve to prepare a generic clause i.e. the draft Plan is only applicable to Lot 1 DP 129075.

The Department advised that it would be more prudent to proceed only with the restoration of a dwelling entitlement for Lot 1 DP 129075 in this instance and that a separate resolution to prepare a generic clause be obtained.

The adoption of the draft Plan, as amended, will re-instate the dwelling entitlement for Lot 1 DP 129075 lost as a result of the widening of Tyalgum Road.

The draft Plan, as amended, can be forwarded to the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) to make the Plan.

A second Amendment to prepare a generic clause will ensure that other instances of dwelling entitlements lost under similar circumstances to that of Lot 1 DP 129075 are re-instated.

RECOMMENDATION:

That Council:

- 1. Amends draft Tweed LEP 2000, Amendment No 65 as shown in this report. Those items to be omitted are marked by ~~strikethrough~~ whilst those items to be inserted are marked by *italics*.**
- 2. Forwards the amended draft Tweed Local Environmental Plan 2000, Amendment No. 65, to the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) and requests the Minister to make the Plan in accordance with section 70 of the Environmental Planning and Assessment Act 1979.**
- 3. Prepares, pursuant to section 54 of the Environmental Planning and Assessment Act 1979, an amendment to Tweed Local Environmental Plan 2000 to generally re-instate dwelling entitlements lost as a result of a subdivision of land that enabled a public benefit to be recognised by the Community.**
- 4. Requests the Director-General of the Department of Infrastructure, Planning and Natural Resources to waive the requirement for an Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment.**

REPORT:

Introduction

Council at its meeting 3 November 2004, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, resolved to prepare and exhibit a draft Local Environmental Plan to restore a dwelling entitlement lost as a result of the widening of Tyalgum Road in 1994.

The draft Plan was publicly exhibited for 28 days from Wednesday 15 June 2005.

The purpose of this report is to summarise to Council the preparation and public exhibition of the draft Plan, and any submissions Council has received with regard to the restoration of a dwelling entitlement for Lot 1 DP 129075.

Background

Prior to the re-alignment of Tyalgum Road in 1994 the subject land was described as Lot 3 DP 982186 Tyalgum Road, Eungella. The creation of Lot 3 was part of a Council approved subdivision from 1975, Council Subdivision No. 136/75. Being part of a Council approved subdivision the subject land had been granted a dwelling entitlement.

As a result of the re-alignment of Tyalgum Road the subject land was re-subdivided in accordance with the Roads Act 1993 to create Lot 1 DP 129075 Tyalgum Road, Eungella. The subject land being re-subdivided in accordance with the Roads Act 1993 means that it was not part of a Council approved subdivision.

In accordance with Tweed LEP 2000 (Clause 57), the on-going provision for a dwelling entitlement is only possible if the subject land is part of a Council approved subdivision. Therefore the dwelling entitlement that once existed for the subject land was lost.

Preparation of the Draft Plan

Section 54 Consultation

At the time of Council's resolution it was identified that the loss of a dwelling entitlement as a result of road widening and/or re-alignment on land, which was originally part of a Council approved subdivision, would not be limited to the subject site. It was acknowledged that possibly numerous sites around the Shire having similar circumstances may exist; however, without individual landowners coming forward it would be impossible to identify all of these.

As a result Council resolved that as part of Amendment No 65 Council consult with the Department of Infrastructure, Planning and Natural Resources (DIPNR) regarding the use of a generic clause to allow for the re-instatement generally of dwelling entitlements lost as a result of the widening and improvement of public roads.

DIPNR advised 25 January 2005 that as it was likely other lots in the Shire having lost a dwelling entitlement under similar circumstances may exist that it would be more appropriate to provide a generic clause that would overcome the re-instatement of lost dwelling entitlements rather than on a case-by-case basis.

Section 62 Consultation

Pursuant to section 62 and 34A of the Environmental Planning and Assessment Act 1979 comments on the preparation of the draft Plan were sought from relevant State Government Departments and Agencies.

No objection was raised regarding the re-instatement of a dwelling entitlement for Lot 1 DP 129075 Tyalgum Road, Eungella provided that as part of an assessment for the erection of a dwelling on the subject site the following was taken into consideration:

- Access to the adjoining road network should be subject to the safety audit process to ensure AUSTRROADS standards are adopted in relation to intersection design and sight distances at the access.
- Dwellings are appropriately located in relation to adjoining aquatic environments, agricultural and extractive industries and any forestry operations.
- The requirements of section 79BA of the Environmental Planning and Assessment Act 1979 and/or section 100B of the Rural Fires Act 1997 are considered.

The NSW Rural Fire Service did not initially support the use of a generic clause to re-instate dwelling entitlements generally particularly on properties identified as bush fire prone.

However, the NSW Rural Fire Service's concerns were resolved by ensuring the Agency that a generic clause would include provisions that prohibited Council from granting development consent for the erection of a dwelling house unless the proposed development could demonstrate that the minimum specifications for "Asset Protection Zones" identified in *Planning for Bushfire Protection 2001* could be provided.

The draft Plan was therefore prepared in two parts. The first was the preparation of an amendment to Schedule 3 of the LEP that would specifically re-instate the dwelling entitlement for Lot 1 DP 129075 Tyalgum Road, Eungella; whilst the second was the preparation of a clause that would generally re-instate dwelling entitlements lost as a result of the widening and/or re-alignment of a public road.

Public Exhibition

The draft Plan was publicly exhibited at the Tweed Heads and Murwillumbah Civic Centres, the Kingscliff Library and Council's website from Wednesday 15 June 2005 to Wednesday 13 July 2005.

Five (5) submissions were received during the exhibition period from State Government Departments or Agencies. One (1) submission, in support of the Amendment, was received from the general public.

Submissions from the State Government Departments/Agencies did not identify any additional issues or concerns with the draft Plan to those identified during consultation undertaken in accordance with Sections 62 and 34A of the Act. However, DIPNR advised that whilst it is considered a generic clause would best resolve the issue of lost dwelling entitlements from the widening and/or re-alignment of public roads, Councils initial section 54 resolution to prepare an amendment to Tweed LEP 2000 is ambiguous in that it does not specifically resolve to prepare a generic clause.

The department advised that it would be more prudent to proceed only with the restoration of a dwelling entitlement for Lot 1 DP 129075 in this instance and that a separate resolution in accordance with section 54 of the Environmental Planning and Assessment Act 1979 to prepare a generic clause to re-instate lost dwelling entitlements as a result of road widening and/or re-alignment be obtained.

Therefore, in accordance with this advice, draft Tweed LEP 2000, Amendment No 65, should be amended as shown at the end of this report. Those items to be omitted are marked by ~~strikethrough~~ whilst those items to be inserted are marked by *italics*.

Conclusion

The adoption of the draft Plan, as amended, will re-instate the dwelling entitlement for Lot 1 DP 129075 Tyalgum Road, Eungella lost as a result of the widening and re-alignment of Tyalgum Road in 1994.

The draft Plan, as amended, can therefore be forwarded to the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) to make the Plan.

A second Amendment to prepare a generic clause will ensure that other instances of dwelling entitlements lost under similar circumstances to that of Lot 1 DP 129075 are re-instated.

draft

Tweed Local Environmental Plan 2000 (Amendment No 65)

Under the

Environmental Planning and Assessment Act 1979

I, the Minister for Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the Environmental Planning and Assessment Act 1979 (GRA6322720)

Minister for Assisting the Minister for Infrastructure
and Planning (Planning Administration)

draft

Tweed Local Environmental Plan 2000 (Amendment No 65)

1. **Name of plan**

This plan is the Tweed Local Environmental Plan 2000 (Amendment No 65)
2. **Aims, objectives etc**

This plan aims to amend Tweed Local Environmental Plan 2000:

 - (a) ~~to restore dwelling entitlements that have been lost as a result of a subdivision of land whereby the said subdivision enabled a public benefit to be recognised by the community i.e. road widening and/or realignment, dedication of land to Council or the Crown. a dwelling entitlement for the land to which this plan applies that was lost as a result of the widening and re-alignment of Tyalgum Road.~~
3. **Land to which plan applies**

~~This plan applies to land in the local government area of Tweed that is within Zone 1(a), 1(b), 7(d) or 7(l) under Tweed Local Environmental Plan 2000. Lot 1 DP 129075 Tyalgum Road, Eungella.~~
4. **Amendment of Tweed Local Environmental Plan 2000**

Tweed Local Environmental Plan 2000 is amended as set out in Schedule 1

Tweed Local Environmental Plan 2000 (Amendment No 65)

Schedule 1 Amendments

[1] **Clause 57A**

Insert after Clause 57:

Clause 57A Restoration of lost Dwelling Entitlements

(1) Objective

(a) ~~The objective of this Clause is to restore dwelling entitlements that have been lost as a result of a subdivision of land whereby the said subdivision enabled a public benefit to be recognised by the community.~~

(2) ~~This clause applies to land within zones 1(a), 1(b), 7(d) and 7(l).~~

(3) ~~Nothing in this plan prevents a person, with development consent, from erecting a dwelling house on an allotment of land zoned 1(a), 1(b), 7(d) or 7(l) (excluding an allotment adjacent to the Pacific Motorway) that:~~

(a) ~~was lawfully created by a subdivision where the other lot or lots in the subdivision were created for a public purpose, and~~

(b) ~~a dwelling house could lawfully have been erected on the original lot prior to the subdivision, referred to in sub-clause 3(a).~~

(4) ~~Development consent, as referred to in clause (3), will not be granted unless the proposed development complies with the minimum specifications for Asset Protection Zones for residential purposes contained within the document entitled *Planning for Bushfire Protection*, prepared by the Planning & Environment Services, NSW Rural Fire Service in co-operation with the then Department of Urban and Transport Planning, and dated December 2001.~~

(5) ~~An allotment is created for a public purpose as referred to in sub-clause (3)(a) only if it is created:~~

(a) ~~for the purpose of widening or realigning a public road, or~~

(b) ~~so the land may be classified as community land under the *Local Government Act 1993*, or~~

(c) ~~so the land may be classified as operational land under the *Local Government Act 1993* and used for public infrastructure, or~~

(d) ~~so that land may be dedicated as a public reserve or dedicated or reserved as a nature reserve or national park (within the meaning of the *National Parks and Wildlife Act 1974*).~~

[2] **Schedule 3 Development of Specific Sites**

Insert at the end of the table in Schedule 3 Development of Specific Sites the following words:

Additional development permitted with development consent	Conditions
Lot 1 DP 129075, Tyalgum Road, Eungella	Development for the purpose of a dwelling house

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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3 [PD] Tweed Local Environmental Plan 2000, Amendment No 3 - Seaside City - Environmental Study and Draft Local Environmental Plan

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000/3

SUMMARY OF REPORT:

Connell Wagner, on behalf of Council, have completed a draft Environmental Study for Seaside City.

The consultant's concluded that: -

"The majority of the Seaside City study area has capacity for urban development for residential and tourism purposes and there are no significant impediments to the proposal to rezone the area from 2(f) Tourism to 2(e) Residential Tourist. Land on the western side of Casuarina Way along Cudgen Creek should be excluded from the development area for environmental reasons and incorporated within an environmental protection zone."

The Consultants have recommended that the draft instrument include provisions to control outstanding environmental issues with regard to the development of Seaside City. In particular these include: -

- The preparation of a Master Plan, Development Control Plan and Section 94 Plan
- Detailed controls for acid sulfate soils, contaminated land remediation, bushfire protection and stormwater.

Notwithstanding that there are some deficiencies in the existing subdivision layout, there are significant obstacles in the way of any complete re-subdivision of Seaside City. Not the least of these is the resultant financial implications (eg GST and capital gains tax) for landowners. Consequently, it is considered that Council has little option but to accept that the current subdivision of Seaside City will remain as the basis of planning for the area. Providing the major landowner is prepared to amalgamate lots into large parcels a high standard of urban design can be obtained with the existing road layout. The major landowner has indicated agreement to this proposal.

RECOMMENDATION:

That Council: -

- 1. Exhibits the Environmental Study and draft Local Environmental Plan, Amendment No 3, prepared by Connell Wagner, subject to the following adjustments:**
 - **The land to be zoned Environmental Protection to exclude land within the subdivided lots on the western side of Catherine Street.**
 - **The rewording of the nominated controls in the Written Instrument.**
 - **The inclusion of additional controls in respect of the service road and cycle way within the riparian buffer to Cudgen Creek.**

- 2. Adopts the current road layout for Seaside City as the basis for future planning;**

- 3. Prepares a Development Control Plan for Seaside City for detailed development and built form controls, in particular:**
 - **Stormwater management and infrastructure provision;**
 - **Urban design at the southern end of Lorna Street;**
 - **Integration with existing development to the north and south;**
 - **Location and integration of public parking;**
 - **Provision of open space;**
 - **Bushfire management;**
 - **Provision of a service road and cycleway west of Catherine Street.**

- 4. Prepares a Section 94 Contributions Plan for Seaside City.**

- 5. Council defers the determination of any Development Application for land within Seaside City until Council has submitted Tweed Local Environmental Plan 2000, Amendment No 3 to the Minister for approval; and has adopted the Development Control Plan detailed in Item 3 above.**

REPORT:

Background

Seaside City is an approved subdivision "on paper only" dating from the 1930s. It comprises 240 lots and associated roads and laneways in a rectilinear pattern. The majority of the lots are owned by the one landowner, and the remainder in 15 other ownerships. The Study Area also includes land to be rehabilitated with Banksia as compensatory blossom bat habitat; and dedicated to Council. The subdivision and ownership pattern are illustrated by Figure 1.

In May 2000 Council resolved to prepare a draft Local Environmental Plan to rezone land at Seaside City from 2(f) Tourist to 2(e) Residential (Tourist). Connell Wagner were engaged by Council to complete an Environmental Study (ES) and draft LEP for the Amendment.

Study Findings

The consultants have completed the draft ES, and concluded as follows: -

"The majority of the Seaside City study area has capacity for urban development for residential and tourism purposes and there are no significant impediments to the proposal to rezone the area from 2(f) Tourism to 2(e) Residential Tourist. Land on the western side of Casuarina Way along Cudgen Creek should be excluded from the development area for environmental reasons and incorporated within an environmental protection zone.

The form of future development requires further consideration by Tweed Shire Council in consultation with landowners. The ultimate decision to proceed with a development based on the current subdivision or an alternative design needs to balance environmental and urban design outcomes with the financial implications for landowners and desired development timeframes. The final development design will need to address several critical planning and environmental issues. These include:

- *Integration with Salt and Casuarina Beach and possible road connections into these developments*
- *The road safety problems associated with direct vehicle access from lots along Casuarina Way and traffic congestion problems associated with a single access from Casuarina Way*
- *Provision of 225 public car spaces within the development area*
- *The provision of a 50 metre wide asset protection zone from riparian vegetation along Cudgen Creek and a 35-50 metre asset protection zone from the coastal reserve*
- *No development east of the 100 year coastal erosion hazard line*
- *Stormwater management and potential water quality impacts on Cudgen Creek and associated SEPP14 wetlands*

- *The provision of a neighbourhood centre and local open space to cater for the needs of residents*
- *Continuous coastal foreshore access including extension of the dual use pedestrian and cycle path between Casuarina and Salt*

To progress the development of Seaside City we recommend the actions set out below be completed prior to the determination of development applications for the site:

- *Tweed Shire Council further consider and determine in consultation with landowners the preferred form of future site development ie whether to proceed with the current subdivision in some modified form or with an alternative design.*
- *Tweed Shire Council prepare a draft local environmental plan to amend Tweed Local Environmental Plan 2000 and rezone the Seaside City area to 2(e) Residential Tourist and 7(l) Environmental Protection (Habitat) based on Figure 3.12. The local environmental plan should incorporate provisions that set out the specific planning and development requirements for the site.*
- *A detailed master plan be prepared for the land within the 2(e) Residential Tourist zone to guide the future development of the site and address the planning and environmental issues identified within the local environmental study. The master plan should also incorporate a stormwater management plan for the site and a servicing strategy.*
- *Plans of management be prepared for land within the coastal reserve and the environmental protection zone on the eastern side of the development area and for the Cudgen Creek riparian corridor on the western side of the development area.*
- *A detailed site radiation investigation be undertaken in consultation with the Department of Environment and Conservation and remediation undertaken to a suitable standard of residential development to proceed.*
- *A site specific development control plan be prepared for the site that sets out the detailed development and built form controls for the site.*
- *Appropriate amendments be made to Section 94 Contributions Plan No. 19 - Kings Beach/Kings Forest".*

Whilst Connell Wagner have supported the rezoning of Seaside City they have raised a number of design and management issues which will require resolution:

- Existing subdivision pattern;
- Cudgen Creek Riparian Buffer;
- Detailed urban design and management issues;
- Appropriate controls to ensure that these issues are adequately met and dealt with at the development stage;
- The determination of Development Applications currently lodged with Council.

Existing Subdivision Pattern

Many of the nominated issues arise from the existing subdivision pattern for Seaside City. One of the specifications for preparation of the ES was a review of that pattern, for which Richtech have prepared a draft Master Plan. The Consultants have reviewed this and identified the following issues: -

- *"The very large lots could be capable of dual occupancy or multi-unit development and the urban design outcomes of these forms of development cannot be predicted.*
- *No increased density of development is proposed around the village centre and there is no provision for tourist accommodation or medium density residential development within the village centre.*
- *The relationship between the lots and proposed open space areas is poor.*
- *The pedestrian walkways are a poor urban design solution for safe pedestrian access and crime prevention. A better solution would be to create a more permeable subdivision with smaller street blocks.*
- *The proposed centre aisle car parking creates potential traffic flow and road safety issues. 90 degree angle parking on both sides of the road would be preferable.*
- *The public car parking would be better located closer to the key attractions ie the village centre and coastal foreshore*
- *The asset protection zone from the coastal reserve is inadequate. A 50 metre asset protection zone is required where tourism uses are proposed while a 35 metre zone is required where development is restricted to residential uses.*
- *Direct vehicle access from lots to Casuarina Way creates traffic flow and road safety problems and should be avoided.*
- *There is insufficient provision for a riparian corridor along Cudgen Creek and no asset protection zone from riparian vegetation.*
- *There are too many beach access points which creates environmental disturbance within the coastal reserve. The landscaped cycleway is proposed to be constructed within the coastal reserve.*
- *Lots back on to the coastal reserve. Best practice is to have road separation to avoid privatisation of public space and for vegetation management.*
- *The proposal to narrow Lorna Street is a poor access and streetscape solution.*
- *The proposal provided poor connectivity to the adjoining Salt and Casuarina Beach developments.*
- *The long street blocks result in poor east-west permeability through the area.*
- *Lot sizes are large and homogenous and inconsistent with surrounding development.*
- *The proposal provides only one access point from Casuarina Way. Additional access points would be preferable to distribute traffic and avoid intersection congestion."*

Most of the nominated deficiencies relate to the Masterplan prepared by Richtech. They are therefore not relevant to the rezoning. However, it is acknowledged that the subdivision pattern does place a significant constraint on the options for the development of the land - as does the ownership pattern also. Connell Wagner have concluded that whether or not that pattern should be altered is a decision for Council.

Notwithstanding these deficiencies there are significant obstacles in the way of any complete re-subdivision of Seaside City. Not the least of these is the reluctance of some owners to agree to resubdivision; and financial implications of GST and capital gains tax for landowners. Consequently, it is considered that Council has little option but to accept that the current subdivision of Seaside City will remain as the basis of planning for the area.

Nevertheless, the deficiencies identified by Connell Wagner must still be addressed. The major landowner is prepared to amalgamate lots into large parcels so that a high standard of urban design can be achieved with the existing road layout. This will go some way to meeting the deficiencies identified by Connell Wagner. These and other issues should be resolved through the preparation and adoption of a Master Plan/Development Control Plan.

One particularly sensitive issue concerns the smaller landowners on the eastern side of the southern end of Lorna Street. As indicated by Figure 3, 12 Lots have less than 450m² of zoned land for the erection of a dwelling, which is the prescribed minimum for the erection of a dwelling. To address this issue the following option has been discussed with landowners of the affected lots:

- Reduce the width of Lorna Street road reserve by 4m;
- Allow the affected landowners to exchange that land for a similar amount of land at the rear of their land which is to be amalgamated into the coastal reserve.
- Allow the erection of a dwelling on the affected Lots with a "zero lot line" set back from Lorna Street.

The amount of zoned land in the affected lots would still be below 450m². The option raises significant urban design issues which would have to be dealt with by a Development Control Plan.

Cudgen Creek Riparian Area

The Consultants have highlighted the need for the protection of water quality in Cudgen Creek, which borders the western boundary of Seaside City.

The Consultants concluded that:

“The water quality monitoring undertaken within Cudgen Creek indicates that water quality is relatively good but has elevated nitrogen and faecal coliform levels. Agricultural and urban stormwater are the dominant influence on pollutant inputs to the estuary. Strategies for the protection of the environmental values of Cudgen Creek including water quality should be implemented including water sensitive urban design approach to stormwater management and adherence to a minimum 50 metre buffer zone of riparian vegetation within new development sites. This is consistent with the guidelines for riparian corridors adopted by DIPNR as best practice for riparian conservation. DIPNR has adopted these guidelines from the Riparian Corridor Management Study (DIPNR 2005) prepared for the Wollongong local government area. The guidelines recommend that to maintain bank stability and water quality and provide biodiversity linkages a riparian corridor should be a minimum of 50 metres wide. This distance includes a 40 metre core corridor plus a 10 metre buffer on either side of the river”.

Fifty metres is the nominated riparian buffer to Cudgen Creek in DCP 16 Subdivision Manual.

As a consequence the Consultants have recommended that land indicated by Figure 4 be zoned Environmental Protection. This area includes the amelioration land to be dedicated to Council as well as a strip of land and laneway at the rear of the lots on the western side of Catherine Street.

Also superimposed on Figure 4 is the actual buffer which indicates that the extent of land to be rezoned Environmental Protection goes beyond the nominated 50m buffers.

Richtech currently has a Development Application lodged with Council for clearing and vegetation management of this area to accommodate a 30m service lane and cycleway corridor at the rear of Catherine Street. However, this would take the cycleway close to Cudgen Creek.

Whilst this degree of detail is not ordinarily a matter for a matter for a rezoning, the Consultant's recommendation needs to be considered in the light of this proposal and:

- The objectives for the riparian buffer;
- The existing subdivision and the need to accommodate a rear service land and cycleway within the buffer areas;
- The need for an APZ at the rear of the lots.

Figure 4 indicates that it is not possible to provide a 50m buffer along the entire length of the Seaside City Subdivision which fronts Cudgen Creek. Where this cannot be achieved it is recommended that a minimum buffer of 25m is acceptable with a 6m service road and a 2.5m cycleway accommodated in an 11.5m reserve. The resultant buffer should be revegetated in accordance with an approved rehabilitation plan.

The remaining issue with respect to the service road reservation is the zoning of the land. A road is permissible in an Environmental Protection Zone but subject to the provisions of Clause 8(2) of the LEP. Whilst this does not preclude the approval of the service road and cycleway any residual ambiguity in Council's intention could be dealt with by either:

- Zoning the land as road; or
- Including the road as a Schedule 3 item.

On balance it is considered that the provisions of Clause 8(2) are adequate for this situation, if supplemented by controls to ensure a minimum buffer of 25m as set out above. The land to be zoned Environmental Protection should exclude land within the subdivided lots on the western side of Catherine Street.

Draft Local Environmental Plan

Connell Wagner have prepared a draft Local Environmental Plan which incorporates the following elements:

1. Zoning: the land rezoned from 2(f) Tourism to 2(e) Residential Tourist, except the land west of Catherine Street which is rezoned to Environmental Protection (Figure 4).
2. Preliminary Planning Requirements: Before Council consents to any development at Seaside City the following must be approved by Council:

Master Plan
Development Control Plan
Section 94 Plan

3. Development Requirements:
 - (a) Council must be satisfied any development meets the requirements:
 - Acid sulphate soils;
 - Contaminated lands remediation;
 - Bushfire protection;
 - Erosion and sediment control plan;
 - Stormwater management plan.
 - (b) Development of each lot located within 50m of the coastal reserve boundary must be limited to a single dwelling house.

Adjustments have been made to the draft prepared by the Consultants to improve the rigour of the recommended instrument, together with the additional controls in respect of the riparian buffer detailed in the report. A copy of the adjusted LEP is provided below.

Development Applications

A number of Development Applications for land within the Seaside City Subdivision have been lodged with Council, and which have yet to be determined. These are summarised in Table 1. Council has the following options to deal with these Development Applications:

1. Defer the determination of all applications until the rezoning has been completed, together with a Master Plan/Development Control Plan.
2. Determine each application as it is lodged on its individual merits, including the provision of landowners' consent to the lodgement when it involves land in Council's ownership or control.
3. Nominate those applications which would not prejudice the completion of a Master Plan for Seaside City, and therefore could be determined in advance of such a Plan.

Option 1 is preferred. A DCP/Master Plan could be prepared whilst the draft LEP is being exhibited.

Table 1 - Current Development Applications in Seaside City

DA Reference	Proposal	Consent Authority
DA 02/2086	19 Tourist Accommodation Units	Minister
DA 02/2088	19 Tourist Accommodation Units and retail	Minister
DA 04/0691	Precinct plan for tourism development and road and infrastructure construction and bulk earthworks	Minister
DA 05/0274 and Part V REF	Construction of roads, carparks, walkways/cycleways, landscaping and identification of open space areas	Council
DA 05/0775	Clearing and replanting vegetation (Lot 500)	Council
DA05/0793	Clearing and replanting vegetation (Creekside)	Council

CONCLUSION:

On the basis of the consultants findings the draft Local Environmental Plan should be exhibited for public comment.

Draft Tweed Local Environmental Plan 2000, Amendment No. 3

draft

Tweed Local Environmental Plan 2000 (Amendment No 3)

Under the

Environmental Planning and Assessment Act 1979

I, the Minister for Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979* (.....)

Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)

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Tweed Local Environmental Plan 2000 (Amendment No 3)

1. **Name of plan**
This plan is *Tweed Local Environmental Plan 2000 (Amendment No 3)*
2. **Aims, objectives etc**
 - (a) To zone the land to 2(e) Residential Toursit to permit residential and tourism uses.
 - (b) To protect areas of environmental significance by zoning land 7(l) Environmental Protection (Habitat).
 - (c) To protect development from environmental hazards.
3. **Land to which plan applies**
This plan applies to land known as Seaside City as shown edged heavy black and coloured on the map marked *Tweed Local Environmental Plan 2000 (Amendment No 3)*.
4. **Amendment of Tweed Local Environmental Plan 2000**
Tweed Local Environmental Plan 2000 is amended as set out in Schedule 1

draft

Tweed Local Environmental Plan 2000 (Amendment No 3)

Schedule 1 Amendments

~~[1]~~ Amend Clause 53 by inserting the following new objective:

~~To set out specific requirements for development on certain land.~~

[21] Insert the following new Clause after Clause 53A:

53B Seaside City

(1) Aims

This Clause aims to:

- (a) ensure that development of the land is undertaken within an appropriate planning framework.
- (b) ensure that development of the land considers relevant environmental issues.

(2) Land to which this clause applies

This Clause applies to land known as Seaside City as shown edged heavy black and coloured on the map marked *Tweed Local Environmental Plan 2000 (Amendment No 3)*.

(3) Preliminary planning requirements

Pursuant to Section 92A of the *Environmental Planning and Assessment (Preliminary Planning) Regulation 2000*, the Council shall not consent to development on land to which this clause applies unless:

- (a) a master plan has been prepared for the development of the land and endorsed by Council and the Council ~~consent authority~~ has taken the master plan into consideration; and
- (b) a development control plan has been approved for the land. The development control plan shall include provisions that establishes location, sizing, standards and design criteria for provisions of subdivision infrastructure (including external connections), the detailed development, land use and built forms and controls for the site; and
- (c) a contributions plan has been approved for the land.

(4) Development requirements

~~(a)~~ The Council shall not consent to development endorse the master plan referred to in 3(a) on the land to which this Clause applies unless:

- (i) ~~the development satisfies the requirements of Clause 35 relating to an acid sulfate soils management plan has been prepared by a suitably qualified person and approved by Council; and~~
- (ii) a contaminated land assessment and remediation plan has been prepared by a suitably qualified person and approved by Council the development satisfies the requirements of Clause 39 relating to the remediation of contaminated land. This assessment must include a detailed site radiation investigation that includes depth monitoring and remediation plan for the land to a suitable standard for residential development; and
- (iii) a bushfire management plan has been prepared in accordance the requirements of Clause 39A by a suitably qualified person and approved by

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~~Council the development satisfies the requirements of Clause 39A relating to bushfire protection; and~~

- ~~(iv) an erosion and sediment control plan has been prepared by a suitably qualified person and approved by Council to the satisfaction of Council; and~~
- ~~(v) (v) — a stormwater management plan has been prepared by a suitably qualified person and demonstrates any impacts on Cudgen Creek and SEPP 14 Wetlands to the satisfaction of Council and that the development complies with the Tweed Urban Stormwater Quality Management Plan.~~
- ~~(vi) Traffic Management Plan has been prepared, demonstrating traffic safety and road linkages to adjoining properties, by a suitably qualified person and approved by Council.~~
- ~~(vii) Preparation of a Plan of Management for land within the coastal reserve and the environmental protection zone and for the Cudgen Creek riparian corridor. The buffer will be 50m in width measured from the creek, excluding the area of the existing lots on the western side of Catherine Street. A cycleway and service road at the rear of those lots may be located within the buffer if those items are a minimum of 25 m from the creek. The Plan of Management will include the rehabilitation of the remainder of the buffer.~~

(4) Master Plan requirements

The master plan referred to in subsections 3(a) and 4 above shall consider include the following provisions:

- ~~(a) no urban development east of the 100 metre Coastal Erosion Hazard Line; and~~
 - ~~(b) The development of each allotment located outside the environmental protection zone and within 50 metres from the coastal reserve boundary is to be limited to a single dwelling house; and~~
 - ~~(c) Environmental buffer of 50 metres to SEPP 14; and~~
 - ~~(d) Environmental buffer of 50 metres to Cudgen Creek; and~~
 - ~~(e) Proposed road corridors and road connection to adjoining properties; and~~
 - ~~(f) broad land use allocations (including locations of environmental areas, tourist facilities, residential uses, commercial facilities, recreation facilities and community facilities); and~~
 - ~~(g) demonstrates continuous coastal foreshore access; and~~
 - ~~(h) provision of public car spaces within the 2(e) Zone; and~~
 - ~~(i) location of bushfire hazard protection areas; and~~
 - ~~(j) bicycle and pedestrian networks consistent with adjoining dual use pedestrian and cycle path on neighbouring properties; and~~
 - ~~(k) Indicative public transport routes; and~~
 - ~~(l) Indicative infrastructure provisions (water, sewer, stormwater)~~
 - ~~(m) Design Philosophy and Development Principles (including 'sense of place' and 'character', and overriding lot layout principles).~~
- ~~(b) The development of each allotment located outside the environmental protection zone and within 50 metres from the coastal reserve boundary is to be limited to a single dwelling house.~~

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Tweed Local Environmental Plan 2000 (Amendment No 3)

- [3] In Part 2 of Schedule 6 insert in numerical order the following:
Tweed Local Environmental Plan 2000 (Amendment No 3);
- [4] Amend the contents page as required to incorporate the above amendments.





Figure 4



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil

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4 [PD] Amendment to Section 94 Contributions Plan No 19 - Kings Beach/Kings Forest

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/19

SUMMARY OF REPORT:

Section 94 Contribution Plan No 19 – Kings Beach/Kings Forest requires amending for the following reasons:

- An amendment in the costs of the following:
 - Construction costs of the community centre buildings and associated car parking have been increased to reflect the current building costs;
 - Land valuation for the community centre at Casuarina Beach has increased from \$200,000 for the 1,500m site to \$600,000. The various sites at Kings Forest for community facilities have also had land valuation increases, but not as significantly as Casuarina;
 - Land valuation for the proposed open space at Kings Forest has increased from \$150,000 per ha to \$500,000 per ha;
 - Costs associated with the open space (amenities blocks and parking) have increased
 - Deletion of the cycleways levy as the developer is providing works in kind.

It is also proposed to change the name of the plan from Kings Beach to Casuarina Beach.

The new contribution rates are as follows:

Open Space

Single residential:	\$1,544 (currently \$637)
Medium density residential:	\$1,010 (currently \$416)
Tourist accommodation:	\$594 (currently \$245)

Community Facilities

Single residential:	\$1,443 (currently \$497)
Medium density residential:	\$943 (currently \$325)

RECOMMENDATION:

That Council:-

- 1. Endorses draft Amendment of Section 94 Contribution Plan No 19 – Kings Beach/Kings Forest be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.**

- 2. The Section 94 Contributions Plan No 19 - Kings Beach/KingsForest be renamed Section 94 Contributions Plan No 19 - Casuarina Beach/Kings Forest.**

REPORT:

Section 94 Contribution Plan No. 19 – Kings Beach/Kings Forest requires amending for the following reasons:

- An amendment in the costs of the following:
 - Construction costs of the community centre buildings and associated car parking have been increased to reflect the current building costs;
 - Land valuation for the community centre at Casuarina Beach has increased from \$200,000 for the 1,500m site to \$600,000. The various sites at Kings Forest for community facilities have also had land valuation increases, but not a significantly as Casuarina;
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Community Facilities

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Medium density residential:	\$943 (currently \$325)

Draft Amendment of Section 94 Contribution Plan No.19 is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Draft amended Section 94 Plan No 19.
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