

DA

OFFICE COPY 41

THE COUNCIL OF THE MUNICIPALITY/SHIRE OF TWEED  
Notice of Permission for Development Involving the Use  
of Land or of Buildings Already Erected

Part 2, Ordinance 105  
Local Government Act, 1919 (Part XIA)

P.N. 1074 (S)

The Town and Country Planning (General Interim Development) Ordinance

To: TWEED SHIRE Planning Scheme

MR. N. L. COLLINS,

74 RAMAH AVENUE,

MOUNT PLUMANT, WOLLONGONG, NSW

In pursuance of its powers under the abovementioned Act and Ordinance, the Council as  
Interim Development Authority hereby permits land/known as Pt. Brisbane

Site 1582 Pt. of Terranora, County of Ross, Pacific

Hwy, Barney's Point  
and shown on the accompanying plan (a) to be used for the purpose of CARAVAN

PARK & HOLIDAY UNITS

subject to due compliance with the provisions of any Act, rule, regulation, by-law, ordinance,  
proclamation, agreement, covenant, or instrument in force with respect to that land and with  
the conditions specified hereunder:-

SEE ACCOMPANYING LETTER

The reasons for the Council's decision to grant permission for the development subject to  
compliance with the conditions hereinbefore specified are:-

COMPLIES WITH TENTATIVE PROVISIONS OF

TOWN PLANNING SCHEME IN COURSE OF

PREPARATION AND PROVISIONS OF INTERIM

DEVELOPMENT ORDER MADE BY THE SHIRE OF TWEED  
Dated 13th day of NOVEMBER 19 67

Town/Shire Clerk.

- 1. An applicant dissatisfied with any conditions imposed by the Council, may appeal to the Minister under subsection (5) of section 824V of the Act within the month of the receipt of notice of the Council's decision, or such longer period as the Minister may allow.
- 2. This permission relates to planning control only. Any other statutory consent necessary must be obtained from the appropriate authority.

B. B. M. Supply Co. Pty. Ltd

FR:JU

TN21

Mr. N.L. Collins,  
74 West Avenue,  
Mount Pleasant,  
WILSON BAY, N.S.W. 2519

Dear Sir,

Re: Proposed Caravan Park  
Development on land known  
as Portions 214 and 282,  
Parish of Terrenceville,  
Pacific Highway, Mannaville  
Point.

At its meeting held on 6th November, 1977, Council  
resolved to approve the above-mentioned proposal, subject  
to the following conditions:-

- (i) Provision of a greater number of toilets, showers, washing facilities and the like, to conform to Council's caravan site standards;
- (ii) the enlargement of caravan sites to a minimum dimension of 30' x 25' in lieu of the proposed 25' square - such requirement to provide a greater area between parked caravans and allow for a higher degree of individual privacy;
- (iii) the provision of a fifteen (15) foot planting strip adjoining the realigned highway frontage for beautification as well as insulation purposes to the park;
- (iv) a minimum distance of one (1) chain (66') from caravan sites to the Mean High Water - the two-way internal 'ring' road system may occupy such area;
- (v) the elimination of holiday cabins from the waterfront; no tourist accommodation to be provided within one (1) chain (66') of Mean High Water Mark;
- (vi) the submission of working plans of a drainage system of the entire subject land, or for the various stages as work progresses, prior to such work commencing, as required in Council's "Standards for Caravan Parks";
- (vii) the provision of any jetties below Mean High Water Mark gaining the required concurrence of the Lands Department;

7421

- 2 -

14th November, 1967.

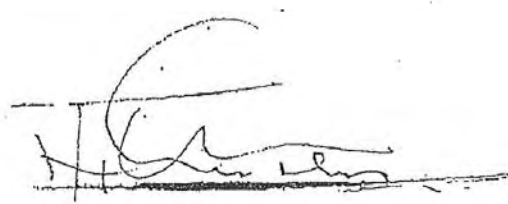
Dear Sirs

the raising of the land to a height of R.L. 11.00 level;

all works to be carried out to the satisfaction and requirements of the Shire Engineer.

Yours faithfully,

(W.E. BENEHAN)  
SHIRE CLERK.



P4030/011  
2700

**THE COUNCIL OF THE SHIRE OF TWEED**  
**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**  
**NOTICE TO APPLICANT OF APPROVAL OF A DEVELOPMENT APPLICATION**

To: M.W. Allen & Associates,  
PO Box 384,  
TWEED HEADS. 2485.

Pursuant to Section 92 of the Act, notice is hereby given of the determination by the Tweed Shire Council of Development Application No. T4/2794 relating to land described as -

Portion 382, Parish of Terranora, >  
Pacific Highway,  
Banora Point. 2486.

to be developed in accordance with plans and details submitted, for the purpose of -  
**EXTENSIONS TO AN EXISTING CARAVAN PARK TO ACCOMMODATE THIRTY SIX (36) MOVABLE DWELLING SITES.**

The Development Application has been determined by the granting of consent subject to the conditions set out in this notice.

The conditions of consent are as follows -

1. The provision of adequate vehicular access.
2. No clearing, draining, filling or other work to be conducted beyond the current filled level of the site in the mangrove area on the northern extremity of the site. No mangroves whatsoever to be removed or destroyed.
3. Three (3) amended site plans to be submitted indicating the extent of the existing filled land, the land areas on the northern extremity of the site and indicating that no work whatsoever will be undertaken below that fill line in the wetland area.
4. The plans in (3) above to be submitted and approved by Council's Chief Town Planner prior to commencement of any work on the site.
5. Compliance with all requirements of Council's Code - "The Movable Dwelling Parks Regulations".
6. Documentation to be submitted covering clause 3.04 of Division Three of the Movable Dwelling Park Regulations Code prior to commencement of any construction work. The applicant to note that this condition necessarily requires the site to be filled to the minimum design flood level of three metres (3m) AHD and minimum residential floor level of all buildings to be at three decimal three metres (3.3m) AHD.
7. Design for the provision of water and sewer to be to the satisfaction of Council's Chief Engineer.
8. The site to be drained so as no run off enters the adjacent wetland areas to the north and west of the site. A drainage design to be submitted for approval prior to commencement of any work on the site.
9. Suitable perimeter fencing to be erected to effectively separate the adjoining northerly and westerly wetlands from the proposed development. The fence to be of suitable design so as to discourage encroachment or intrusion onto the wetland areas.

- 10. Details of the proposed landscaping and fencing in (9) above to be submitted and approved by Council's Chief Town Planner prior to commencement of any work on the site. The approved fencing to be erected prior to commencement of any work on the site.
- 11. The payment of appropriate headworks charges for water and sewerage at Council's 1985 rate of \$600 per site for water headworks and \$504 per site for sewerage.
- 12. This approval relates generally to the site layout in plan numbered A1-2285/4, prepared by M.W. Allen & Associates subject to the amendments required by condition (3) above.

The reasons for the imposition of conditions are set out as follows -

- 1. See attached "Access to Property" pamphlet.
- 2. To ensure the development does not encroach on any wetlands area prescribed pursuant to State Environmental Planning Policy No. 14.
- 3. See (2) above.
- 4. See (2) above.
- 5. To ensure compliance with relevant code requirements.
- 6. To ensure compliance with relevant flood level requirements.
- 7. To ensure satisfactory provision of services.
- 8. To minimise risk of any likely detrimental affect on adjacent mangrove areas.
- 9. See (8) above.
- 10. See (8) above and to enhance the amenity of the locality.
- 11. For the provision of water and sewerage services.
- 12. To ensure the development is carried out in accordance with the submitted application.

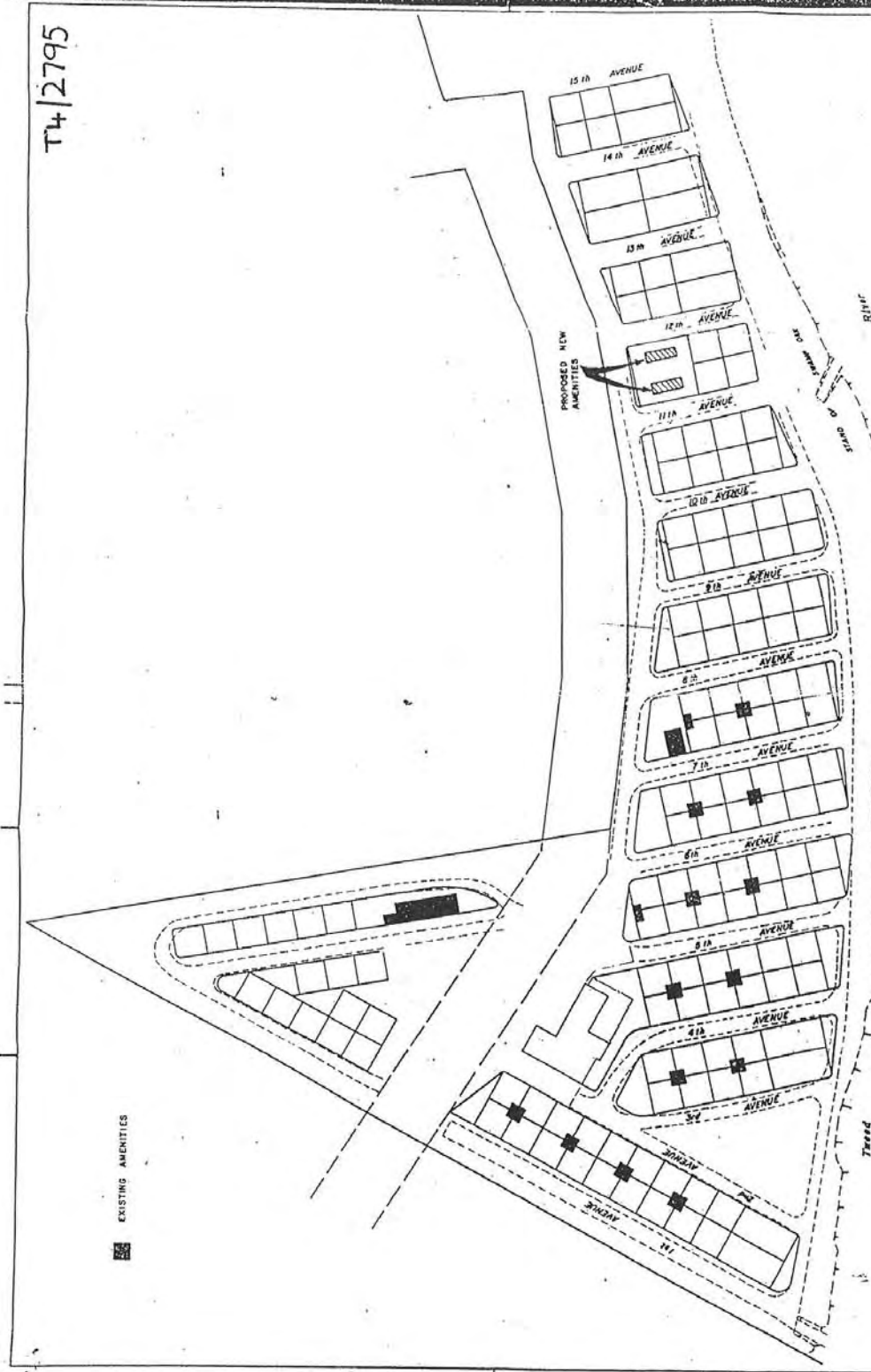
Dated .....17th..... day of .....March,..... 1986

(N.B. Refer to Notes attached to this Notice)

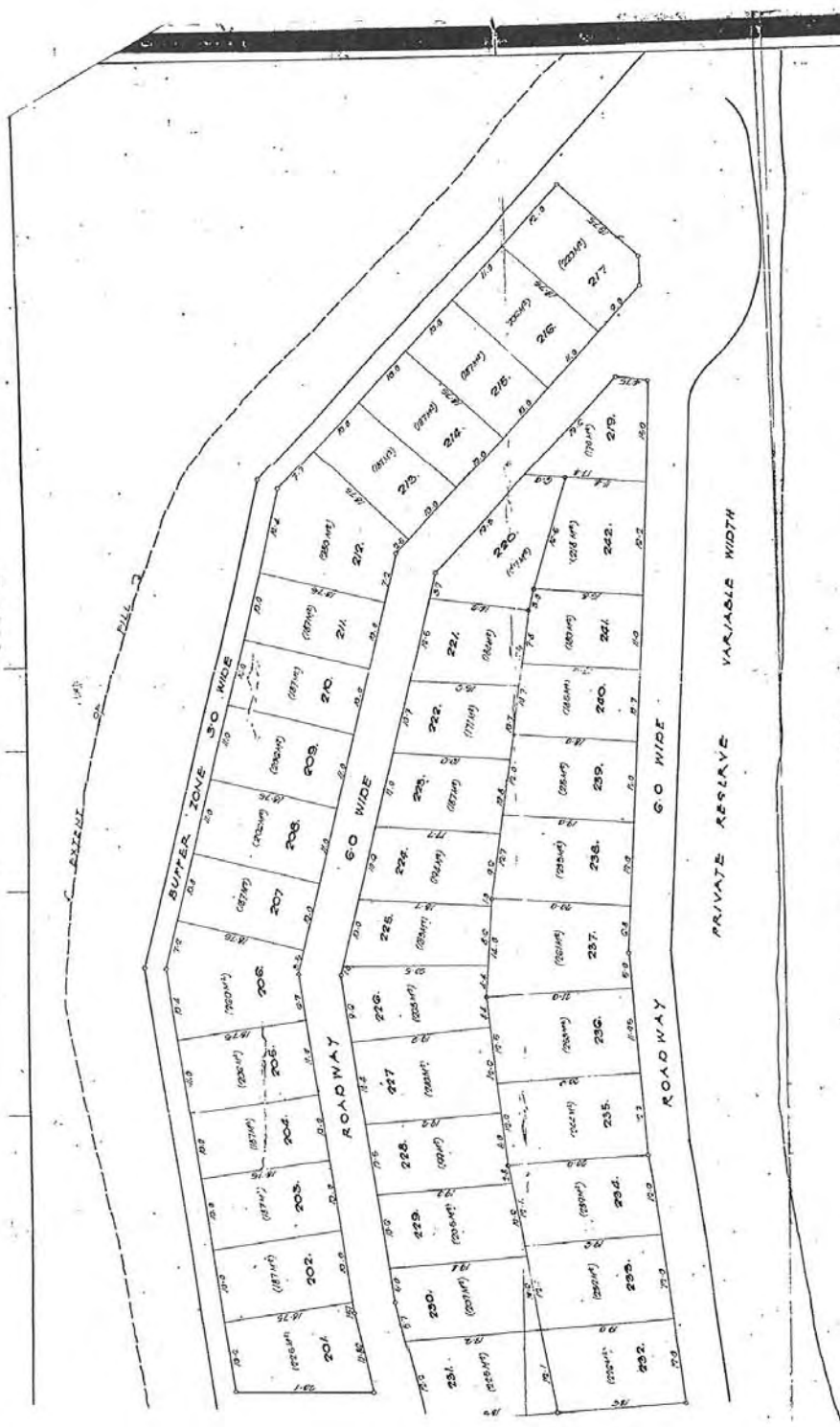
*J.S. Nixon*  
.....  
J. S. NIXON  
SHIRE CLERK.

per .....*J.S.*.....

T4/2795



<p><b>M. W. ALLEN &amp; ASSOCIATES</b> CONSULTING ENGINEERS CITIL OFFICE: 10011 100th STREET, MISSISSAUGA, ONTARIO L4V 1P7 PHONE: (905) 362-2288</p>		<p><b>SANORA POINT CARAVAN PARK</b> SHEET 1 OF 1 DATE: 11/20/20</p>	
<p><b>PROPOSED NEW AMENITIES</b></p>		<p><b>EXISTING AMENITIES</b></p>	
<p>15th AVENUE</p>		<p>14th AVENUE</p>	
<p>13th AVENUE</p>		<p>12th AVENUE</p>	
<p>11th AVENUE</p>		<p>10th AVENUE</p>	
<p>9th AVENUE</p>		<p>8th AVENUE</p>	
<p>7th AVENUE</p>		<p>6th AVENUE</p>	
<p>5th AVENUE</p>		<p>4th AVENUE</p>	
<p>3rd AVENUE</p>		<p>2nd AVENUE</p>	
<p>1st AVENUE</p>		<p>TRAIL</p>	
<p>RIVER</p>		<p>STAND</p>	



SAUNDERS POINT CARAVANZAR N.E. 1/4 369 J. D.		PROPOSED AMENDMENT TO ZONING ORDINANCE TO RECLASSIFY 369	
M. W. ALLEN & ASSOCIATES CONSULTING CIVIL ENGINEERS 1218 W. 1st St. TULSA, OKLA. 74104		PREPARED BY M. W. ALLEN DATE 10/15/08	
SHEET NO. 1 OF 1		PROJECT NO. 08-001	
DATE 10/15/08		SCALE AS SHOWN	
DRAWN BY M. W. ALLEN		CHECKED BY M. W. ALLEN	
PROJECT LOCATION SAUNDERS POINT CARAVANZAR		PROJECT DESCRIPTION PROPOSED AMENDMENT TO ZONING ORDINANCE	

THE TWEED COUNCIL

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF APPROVAL OF A DEVELOPMENT APPLICATION

To: Mr Shane Lawler  
Banora Point Caravan Park  
Pacific Highway  
BANORA POINT 2486

Pursuant to Section 92 of the Act, notice is hereby given of the determination by the Tweed Council of Development Application No. 94/15 relating to land described as -

Lot 1 DP 583322 & Lot 382 DP 755740  
Pacific Highway  
Banora Point 2486

to be developed in accordance with plans and details submitted for the purpose of -

**ADDITIONS TO EXISTING CARAVAN PARK**

The Development Application has been determined by the granting of consent subject to the conditions set out in this notice.

The conditions of consent are as follows -

1. The development to be completed generally in accordance with Plan Nos. A1 1087/1 and A1 2285/16 prepared by MW Allen & Associates.  
*shows 41 sites - back area.*
2. Perimeter fencing separating the subject land from the adjacent wetlands is to be maintained at all times to the satisfaction of Council's Director of Development Services.  
*shows 36 sites of back area*
3. A 3 metre buffer zone between the subject land and the adjacent wetlands is to be provided at all times, and maintained to the satisfaction of Council's Director of Environment & Community Services.
4. A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained to verify that the necessary requirements for the supply of water (and sewerage) to the development have been made with the Tweed Council before approved building plans are released. Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance (Water \$10,875 and Sewer \$8,925).

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.

*D.A. T4/2790 approved March '86 for additional 36 sites for movable dwelling - see A1 1087/1. which totals 195 sites.*  
*J. Leahy*



5. The payment of \$1941.63 as a contribution towards the upgrading of Distributor Road within the locality in accordance with the Lower Tweed Transportation Study. This is to be paid prior to the release of approved building plans.

This charge remains fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with rates adopted by Council.

6. The payment of the following contributions pursuant to the provisions of Section 94 of the Environmental Planning and Assessment Act 1979.

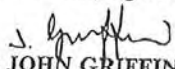
- |                         |        |
|-------------------------|--------|
| 1. Open Space (Active)  | \$1705 |
| 2. Open Space (Passive) | \$925  |

These charges to remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment and in any event, prior to the release of the approved building plans.

7. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
8. Compliance with all requirements of Council's Environment & Community Services Division.

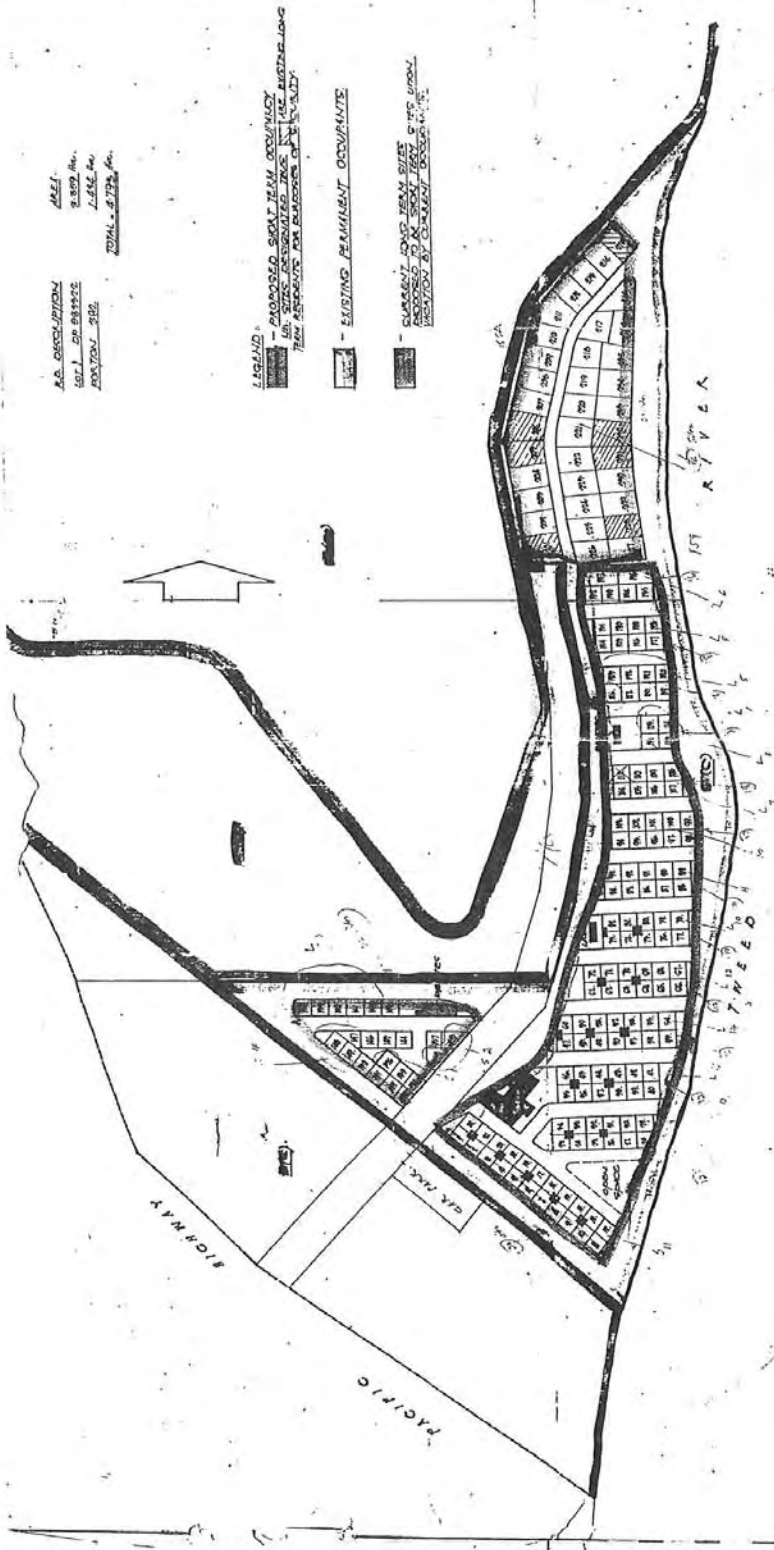
The reasons for the imposition of conditions are to minimise any adverse impact the development may cause and to give effect to the objectives of the Environmental Planning and Assessment Act, 1979.

Dated 24TH day of JUNE 1994

  
DR JOHN GRIFFIN  
GENERAL MANAGER

(N.B. Refer to Notes attached to this Notice)

per .....



AC. DEVELOPMENT  
 2.809 Ac.  
 LESS 2.809 Ac.  
 LESS 1.454 Ac.  
 TOTAL = 0.546 Ac.

**LEGEND:**  
 [Symbol] - PROPOSED SIGHT TRIANGLE OCCUPANCY  
 [Symbol] - EXISTING PERMANENT OCCUPANTS  
 [Symbol] - CLASSIFIED ZONING FROM SITES  
 [Symbol] - LOCATION OF EXISTING OCCUPANTS

THIS IS THE PLAN REFERRED  
 TO IN THE PERMIT  
 DATED 11/1/80

M. W. ALLEN & ASSOCIATES CONSULTING CIVIL ENGINEERS OFFICE: THREE HILLS THREE HILLS ALEX. ILL. PHONE (815) 382288		DATE: 11/1/80 DRAWN BY: [Name] CHECKED BY: [Name]	PROJECT NO.: [Number] SHEET NO.: [Number]
BANCROFT PARK SITE NUMBER LAYOUT FOR LICENSING PURPOSES		APPROVED: [Signature] DATE: 11/1/80	SCALE: [Scale]

**TITLE: [PR-PC] Refurbishment of the Banora Point Caravan Park, Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: PF4030/2620**

**SUMMARY OF REPORT:**

In late 2007 the Banora Point Caravan Park was sold to Lifestyle Resorts Australia Pty Ltd. Since purchasing this property the owner has facilitated the relocation of previous tenants and commenced site works to refurbish and upgrade the old caravan park in accordance with their previous development approvals and “community plan”. The previous consents allocated for the construction of 180 permanent home sites within a licensed caravan park.

When initial site works commenced Council was under the impression that these works would comprise maintenance of existing sanitary, stormwater pipelines, and water supply lines. These works were meant to involve minimal rectification work. However this maintenance work has led to the renewal of the private infrastructure works consisting of sanitary drainage, water supply and stormwater drainage in addition to significant earthworks across the site.

Council has been trying to work with the new owner to ensure all site works meet legislative requirements. A meeting was held on 11 November 2008 which identified all outstanding matters to date as detailed within this report. The owner has indicated that the outstanding matters are capable of resolution and will get the additional information to Council in the near future.

This report aims to inform all Councillors of the project to date and to seek support for a programme for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

**RECOMMENDATION:**

**That Council: -**

- 1. Continues to negotiate directly with the owner to seek a lawful development across the site; and**
- 2. Should the negotiations not resolve in a lawful outcome within 2 months Council engages legal representation and seeks their direction for the management of approvals and enforcement actions**

**REPORT:**

**Applicant:** Lifestyle Resorts Australia Pty Ltd(Own)  
**Owner:** Lifestyle Resorts Australia Pty Ltd(Own)  
**Location:** Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point.  
**Zoning:** 6(b) Recreation  
**Cost:** Unknown

**Background & Report**

The land is described as Lot 5 in DP 828639 being 2.815 hectares and Lot 382 DP 755740 being 1.4215 hectares, Pacific Highway East, Banora Point. The total parcel is irregular in shape with frontage to both the Pacific Highway and the Tweed River (to the east). The land adjoins Crown Road to the west.

The land is historically low lying and is mapped as a partial SEPP 14 wetland.

The Banora Point Caravan Park has an extensive development history:

<u>Date</u>	<u>Consent Number</u>	<u>Approval</u>
14 November 1967	PN 1074	Filling of land to RL 11 and developing a caravan park and holiday units.
10 October 1983	T4/2795	Consent issued for the erection of 2 amenity blocks
17 March 1986	T4/2794	Extension to an existing caravan park to accommodate thirty six movable dwelling sites.
24 June 1994	D94/0015	Additions to existing caravan park to accommodate 5 relocatable home sites (these sites already existed and the DA was only lodged in response to the Council's request due to non compliance.
11 December 2000	DA 0910/2000	Boat Mooring & Launching Facilities
19 April 2001	DA 1198/2000	Erection of a demountable amenities building.

DA94/0015 was the last development consent issued for caravan park sites, bringing the total lawful number of sites to 180.

Whilst the original approval authorised a caravan park and holiday units the site consent have morphed into a caravan park with a maximum capacity of 180 permanent home sites.

Since late 2007 the new owner has facilitated the relocation of all previous tenants and commenced site works to refurbish and upgrade the old caravan park in accordance with their previous development approvals and "community plan".

In November 2007 the new owner lodged a S96 Modification Application to D94/0015 to reduce the number of long term sites from an approved 180 sites down to 92 sites (each comprising a minimum site area of 230m<sup>2</sup> with the average dwelling having a floor area of 151m<sup>2</sup>).

The S96 was not considered to meet the substantially the same development test and the applicant subsequently withdrew the application before a refusal was issued.

It was at this point that the new owner decided to proceed with the refurbishment of the caravan park utilising the previous approval rather than a new DA.

Since this time Council has been trying to liaise with the applicant to obtain applications for stormwater works, sewer works, and earthworks.

It would be Council's preference to manage this site in a holistic manner. This would require the lodgement of site plans demonstrating the ultimate configuration including all residents sites, all recreational facilities and any future development areas (such as the crown road reserve) on the one masterplan. The owner has indicated that this will be received in the near future as design work is almost complete.

Some of the required information has been submitted to Council, however, there are outstanding matters that have been brought to the applicant's attention on 7/11/2008. Please find following an extract of a letter sent to the applicant:

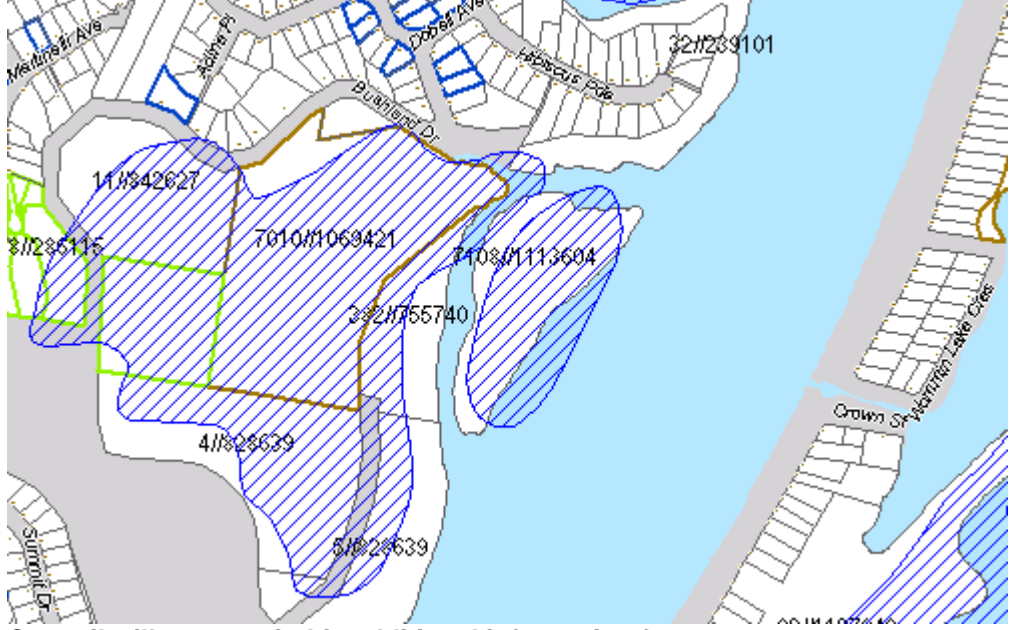
Issue (Approval Required)	Status of Issue/Approval
<p>S68 required for sewer and onsite sewerage management application</p> <p>Last requested by Council 21/08/2008</p>	<p><u>Council Application SEW08/0500</u></p> <p>This relates to an application for a pump station. Council's Senior Building Surveyor is co-ordinating the assessment of this application in consultation with Council's Environmental Health Officer.</p> <p><u>Council Application SEP08/0016</u></p> <p>This relates to an application for a pump station. Council's Environmental Health Officer is co-ordinating the assessment of this application and a further information request has been requested (E-Mail Robert Noakes to Scott Morrison 16/07/2008) regarding the modification of the pump station.</p> <p>A. <i>Maintenance of existing sanitary, stormwater pipelines, and water supply lines is permitted to proceed providing;</i></p> <p style="padding-left: 40px;">i) <i>there are no additional lines added,</i></p> <p style="padding-left: 40px;">ii) <i>work as executed drainage plans and certification of the same by a hydraulic consultant are forwarded to Council, and</i></p> <p style="padding-left: 40px;">iii) <i>you demonstrate that such works are in accordance with current planning approvals.</i></p> <p>B. <i>It is to be noted that SEP08/0016 &amp; SEW08/0090 are undetermined. The following information is required to be submitted to Tweed Shire Council to complete assessment of these applications;</i></p> <p style="padding-left: 40px;">i. <i>Service agent name, business address and copy of the signed service agreement from a suitably qualified service agent (the service agreement shall specify a 12 monthly maintenance schedule and details of the servicing method).</i></p> <p style="padding-left: 40px;">ii. <i>Owners consent in respect of sanitary drainage lines located in Crown Land, and the road reserve in Oyster Point Road/Bushland Drive owned by Tweed Shire Council</i></p> <p style="padding-left: 40px;">iii. <i>Certification and "work as executed drawings" from a hydraulic consultant in respect of the sanitary drainage line connecting the pump station to the manhole EE/1 located in the Road reserve of Oyster Point</i></p>

Issue (Approval Required)	Status of Issue/Approval
	<p><i>Road/Bushland Drive confirming that such line is in good working order free of breakages and defects.</i></p> <p>C. <i>You are required to contact Senior Town Planner Denise Galle and Compliance Officer Steven Bishop in respect of the works being currently undertaken at Banora Point Caravan Park.</i></p> <p><u>Council Application SEW 08/0090</u></p> <p>This relates to an application for a pump station. Council's Senior Building Surveyor is co-ordinating the assessment of this application in consultation with Council's Environmental Health Officer.</p> <p>The above e-mail of 16/07/2008 is applicable to this application.</p> <p><b>Council requires the applicant to liaise with Council to enable a final determination of these permits.</b></p>
<p>S68 Applications in the form of Section 68h2 and Section 68h3</p>	<p><u>Council Application SWD08/0628</u></p> <p>Swimming Pool 1 (near front entrance)</p> <p>Ready for issue if corresponding DA for pool is approved.</p> <p><u>Council Application SWD08/0629</u></p> <p>Swimming Pool 2 (on riverfront)</p> <p>Ready for issue if corresponding DA for pool is approved.</p> <p><u>Council Application SWD08/0633</u></p> <p>SW drainage over whole site with 10 SW quality devices</p> <p>Ready for issue if corresponding approvals are in place i.e. fill applications.</p> <p><u>Council Application SWD08/0003</u></p> <p>Outdated (based on old S96) to be withdrawn by applicant.</p> <p>Please note: Council's Planning &amp; Infrastructure Engineer was contacted by your surveyor, who asked whether you are required to provide works as executed plans for the internal civil works currently underway on the site.</p> <p>The submission of works as executed plans for the water, sewerage and stormwater drainage infrastructure, and site works (filling), are required to be prepared in accordance with Development Design Specification D13, Section D13.15 Summary WAX Plans. These plans should be produced by a qualified surveyor and provided in the formats specified by D13.13.</p> <p><b>Council will await this information</b></p>
<p>Development Application required seeking approval for filling the site to the current design flood level.</p>	<p>On 22 September Council received your letter and accompanying legal advice stating that in your opinion the site already has consent to fill to the required flood level, and that therefore you will not be submitting a DA for the "topping up" of the site.</p> <p>You further provided that you will submit to Council details on where the fill came from, method of transport, haulage route and evidence it is free from contaminants.</p> <p><b>To date this information has not been received.</b></p>

<b>Issue (Approval Required)</b>	<b>Status of Issue/Approval</b>
Requested 21 August 2008.	<p>Council is still of the opinion that a DA is required for the filling works of the subject site.</p> <p>Whilst the 1967 approval authorised fill to RL 11, this level is not the current design flood level and therefore “topping up the site” constitutes earthworks which require development approval.</p> <p><b>Council is again requesting the lodgement of a Development Application for earthworks.</b> Failure to produce the necessary Development Application may result in Council commencing legal proceedings for unauthorised works.</p>
<p>Plans for “Community Plan” to demonstrate compliance with the relevant Acts</p> <p>Last requested 21 August 2008</p>	<p>Your letter of 22 September acknowledged the need for this to be lodged, yet you provided that it would need to await the DoL Road Reserve.</p> <p>The licensing of the road reserve may take some time to resolve.</p> <p>Council requires a “Community Plan” that excludes the road reserve as your current development approvals do not extend within the road reserve.</p> <p><b>A community Plan is again requested</b> as a matter of urgency to ensure your site will be capable of complying with the legislation. One of the requirements of the legislation relates to flooding and a community plan should be accompanied with detailed site levels pre recent filling works and post recent filling works.</p> <p>Failure to produce the necessary Community Plan may result in future delays in granting a licence for the subject site.</p> <p>Council’s Coordinator Environmental Health will be managing this aspect of the project.</p>
<p>Traffic Control Plan required.</p> <p>Last requested 21 August 2008</p>	<p>Your letter of 22 September acknowledged the need for this to be lodged, yet <b>to date this has not been received.</b></p>
<p>On-site Construction requested by you 22 September 2008</p>	<p>Your letter of 22 September 2008 indicated that you would be applying for a Section 68 approval for onsite construction with a Section 82 Objection.</p> <p><b>To date no such application has been received.</b></p> <p>No onsite construction (of homes) is to occur without prior approval from Council.</p>
<p>Validity of 0910/2000DA (Boat Mooring and Launch Facilities)</p>	<p>Your letter of 22 September 2008 indicated that you believe works undertaken to date demonstrate commencement.</p> <p>The documents you have provided to date do not adequately demonstrate commencement.</p> <p>Council notes that your letter of 22 September 2008 indicates that you will provide to Council drawings showing the proposed replacement jetties meeting current construction standards. <b>No information has been supplied to date.</b></p> <p>It is further noted that your comments as detailed above are contrary to a letter from the Department of Fair Trading in which it states:</p> <p><i>“Ms Morrison has confirmed that they have removed any reference to existing approved Marina berths from all of their promotional material in order to prevent any confusion in the future. All sales staff has also been informed of the importance of reiterating that any marina berths they have on the site on completion of the</i></p>

Issue (Approval Required)	Status of Issue/Approval
	<p><i>development are not currently approved"</i></p> <p>No construction of any marina or boating facility is to occur without prior approval from Council or the Department of Planning as statutorily required.</p>
<p>Site Contamination Reports</p> <p>Requested by Council on 23 September 2008</p>	<p>In an e-mail from Council to Scott Morrison on 23 September 2008, site contamination reports were requested.</p> <p>On 29 September 2008 you advised Council that such a report has been commissioned.</p> <p><b>To date Council has not received a copy of this report.</b></p>
<p>Landscaping Plan &amp; Regeneration Work Plan</p> <p>Requested 23 September 2008</p>	<p>In an e-mail from Council to Scott Morrison on 23 September 2008, landscaping reports were requested.</p> <p>On 29 September 2008 you advised Council that such plan was not going to be provided.</p> <p>The landscaping plan was requested to review "the extent of works" to establish whether the activities constitute works within 40m of a waterway which would trigger the need for a permit from the Department of Water &amp; Energy in accordance with the Water Management Act 2000.</p> <p><b>This landscaping &amp; regeneration plan is again requested</b> to ensure your development meets the legislative requirements, and ensures the protection of a sensitive coastal location.</p>
<p>DA08/1033 Pool (adjoining the river)</p>	<p>This DA was lodged on 23/09/2008.</p> <p>The application triggers "Integrated Development" and accordingly requires 3 referrals (each requiring a separate cheque of \$250 to each government department)</p> <ul style="list-style-type: none"> <li>• Department Water &amp; Energy for works within 40m of a waterway, and Dewatering (requiring 30 days for exhibition);</li> <li>• Department of Primary Industries for dredging or reclamation works;</li> <li>• NSW Rural Fire Service tourist accommodation (caravan park) in a bushfire prone area (as requested by Scott Sewell NSW Local Rural Fire Service).</li> </ul> <p>The application was submitted without</p> <ul style="list-style-type: none"> <li>• plans to scale;</li> <li>• a bushfire management plan;</li> <li>• 3 X \$250 cheque made out to each Department as detailed above;</li> <li>• 3 X \$110 paid to Council per Integrated referral required</li> <li>• \$540 advertising fee;</li> <li>• Justification demonstrating compliance with the previously approved community map.</li> </ul> <p>Please note the objection to a pool on the immediate riverbank relates to potential impact to bank stability, but mainly that the site chosen would require significant tree removal (namely a clump of large Riveroaks (Casuarina glauca), a native species the predominant component of the Endangered Ecological Community Swamp Oak on Floodplain. The sites proximity to the Tweed River may make it likely to be an EEC classification.</p> <p>Therefore, the application should be accompanied with a flora and fauna report.</p> <p><b>Council will now await this additional information and fees.</b></p>



Issue (Approval Required)	Status of Issue/Approval
<p>DA08/1032 Pool (internal adjoining Road No. 2)</p>	<p>This DA was lodged on 23/09/2008.</p> <p>The application triggers "Integrated Development" and accordingly requires 2 referrals (each requiring a separate cheque of \$250 to each government department)</p> <ul style="list-style-type: none"> <li>• Department Water &amp; Energy for works within 40m of a waterway, and Dewatering (requiring 30 days for exhibition);</li> <li>• NSW Rural Fire Service - tourist accommodation (caravan park) in a bushfire prone area (as requested by Scott Sewell NSW Local Rural Fire Service).</li> </ul> <p>The application was submitted without</p> <ul style="list-style-type: none"> <li>• plans to scale;</li> <li>• a bushfire management plan;</li> <li>• 2 X \$250 cheque made out to each Department as detailed above;</li> <li>• 2 X \$110 paid to Council per Integrated referral required</li> <li>• \$540 advertising fee;</li> <li>• Justification demonstrating compliance with the previously approved community map.</li> </ul> <p>Please note the pool appears to fall within a mapped SEPP 14 area and would therefore trigger the need for an EIS. Please see below map and address with additional information</p>  <p><b>Council will now await this additional information fees.</b></p>
<p>Clarification of works within the mapped SEPP 14 area</p>	<p>In your letter dated 29 September you query the process for amending the SEPP 14 maps.</p> <p>The Department of Planning is responsible for SEPP 14.</p> <p>There is an avenue for persons to apply to the Department of Planning to alter SEPP 14 mapping based on elevation, micro topography, inundation regime, soil type and vegetation type. This would normally be done by the landowner, which in this case is the Department of Lands.</p>

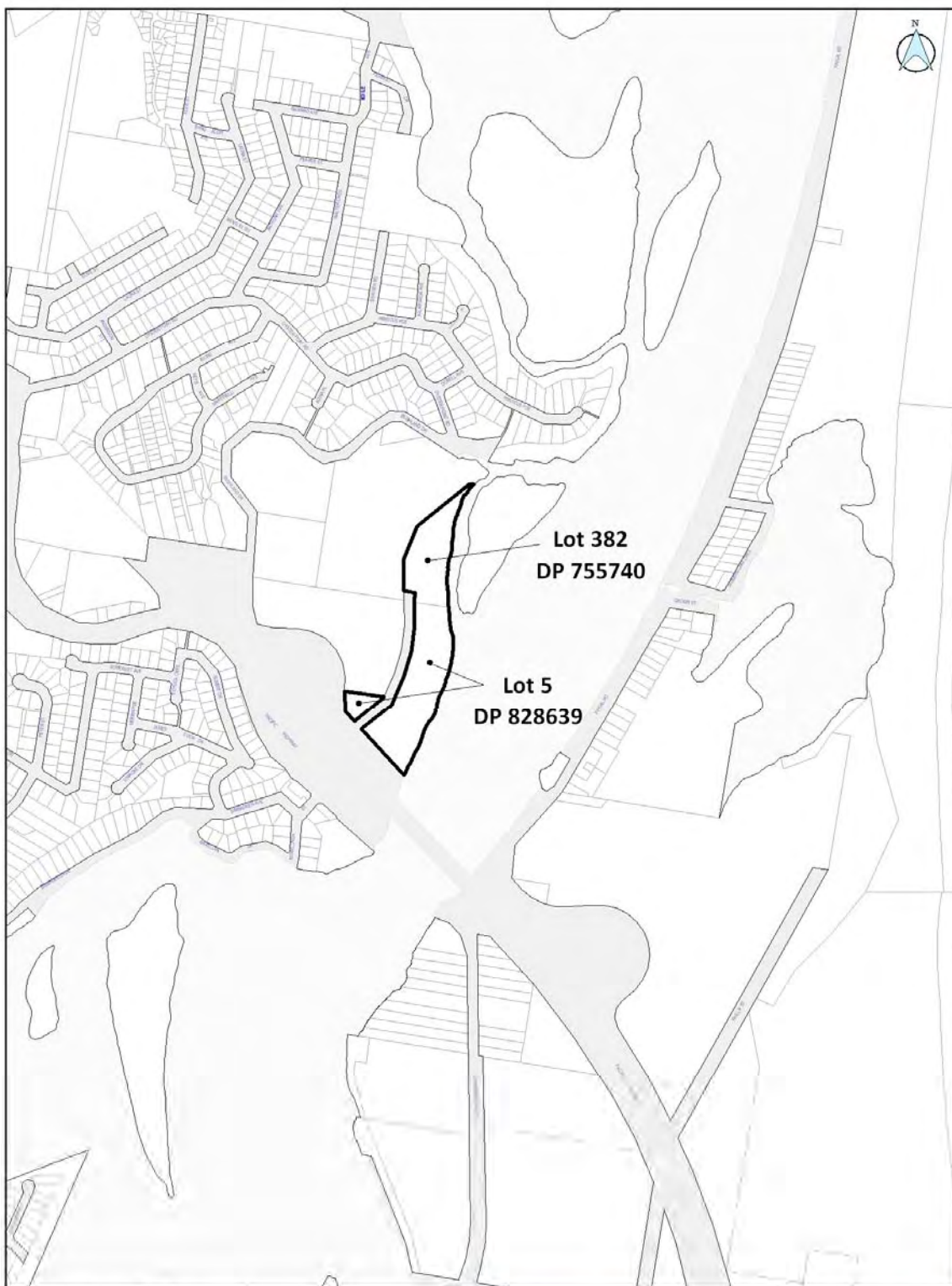
Whilst the above table demonstrates remaining outstanding matters it should be noted that the applicant has responded to Council's requests for improved erosion and

sediment control and has maintained a controlled building site throughout works conducted so far.

Council has maintained open communication with the owner of the property and met with the applicant on the 11<sup>th</sup> of November 2008 to further discuss the outstanding matters. The owner has indicated that the unresolved issues are capable of being resolved with additional information to be lodged in the near future.

The owner has been asked to formally respond to the above issues within 14 days.

**SITE DIAGRAM:**



© TWEED SHIRE COUNCIL 2008  
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  
**DO NOT SCALE**  
**COPY ONLY - NOT CERTIFIED**  
 P.O. Box 916 Murrumbidgee, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2485

*Tweed Shire Council*  
**Lot 5 DP 828639 & Lot 382 DP 755740**  
**Pacific Highway East, Banora Point**  
 GDA

**Site Plan**  
  
 Scale: 1:10,000  
 Sheet: 1 of 1

**OPTIONS:**

1. Council continue to negotiate directly with the owner to seek a lawful development across the site. Should the negotiations not resolve in a lawful outcome within 2 months Council engage legal representation and seek their direction for the management of approvals and enforcement actions
2. Council engage legal representation and seek their direction for the management of approvals and enforcement actions relating to Lot 5 in DP 828639 & Lot 382 in DP 755740.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council will incur legal costs if option 2 is adopted.

**POLICY IMPLICATIONS:**

It is considered necessary to continue working with the owner to ensure the legislative requirements are upheld and that this results in a lawful development site.

**CONCLUSION:**

This report aims to inform all Councillors of the project to date and to seek support for a programme for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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**TITLE: [PR-PC] Refurbishment of the Banora Point Caravan Park, Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: PF4030/2620 Pt5**

**SUMMARY OF REPORT:**

In November 2008 the refurbishment of Banora Point Caravan Park was reported to Council to seek support for a program for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

Council resolved as follows:

*"that Council*

- 1. Continues to negotiate directly with the owner to seek a lawful development across the site; and*
- 2. Should the negotiations not resolve in a lawful outcome within two (2) months, Council engages legal representation and seeks their direction for the management of approvals and enforcement actions."*

This report seeks to provide a status update on previously outstanding matters. The Council report of 18 November 2008 is attached for the necessary background information.

**RECOMMENDATION:**

**That:-**

- 1. Council seeks additional information from the applicant as detailed within this report;**
- 2. Council advises the applicant that no development application is required for the previously undertaken site filling works;**
- 3. Should the additional information not be forthcoming within 2 months Council engages legal representation and seeks their direction for the management of approvals and enforcement actions.**

**REPORT:**

**Applicant:** Lifestyle Resorts Australia Pty Ltd(Own)

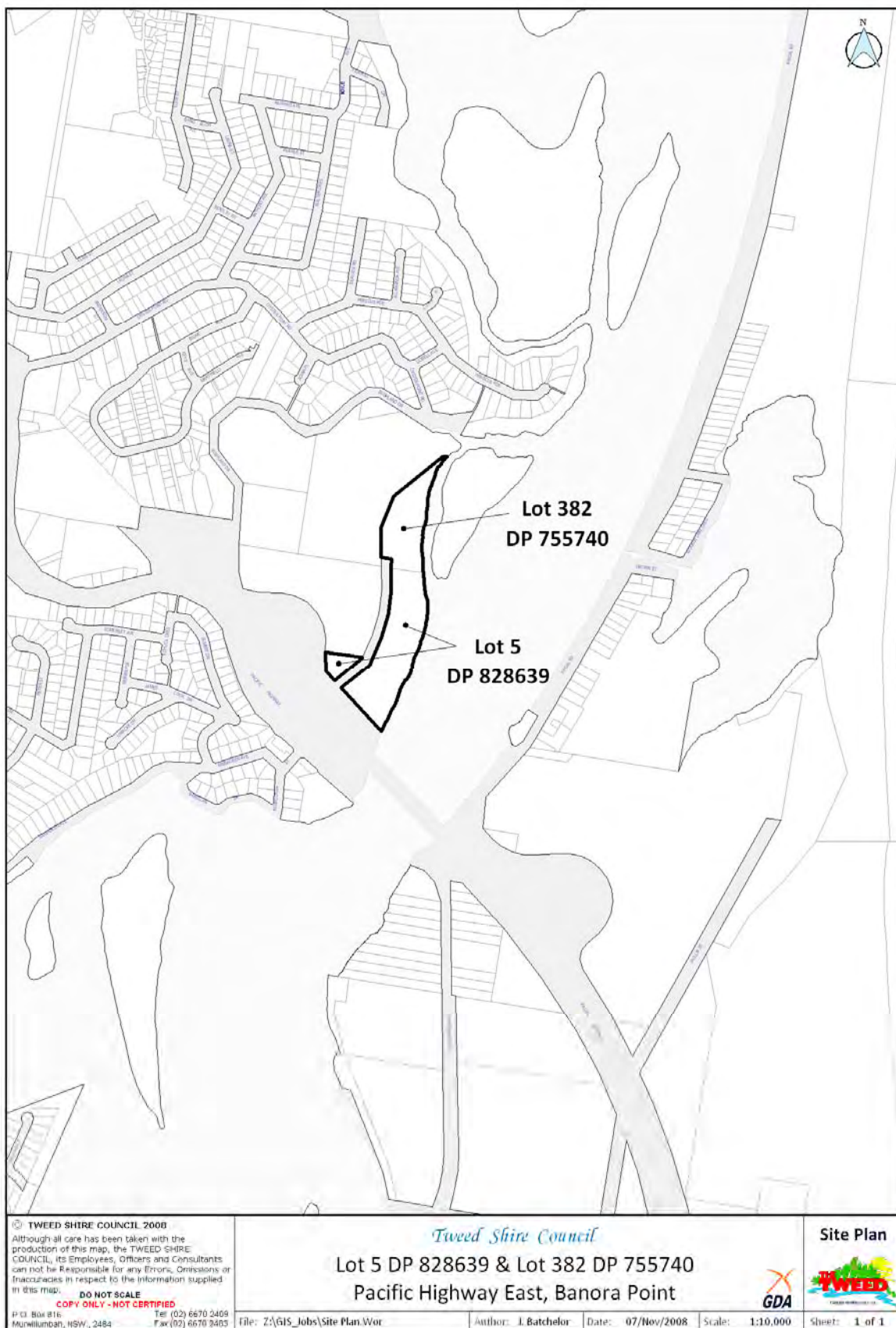
**Owner:** Lifestyle Resorts Australia Pty Ltd(Own)

**Location:** Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East,  
Banora Point.

**Zoning:** 6(b) Recreation

**Cost:** Unknown

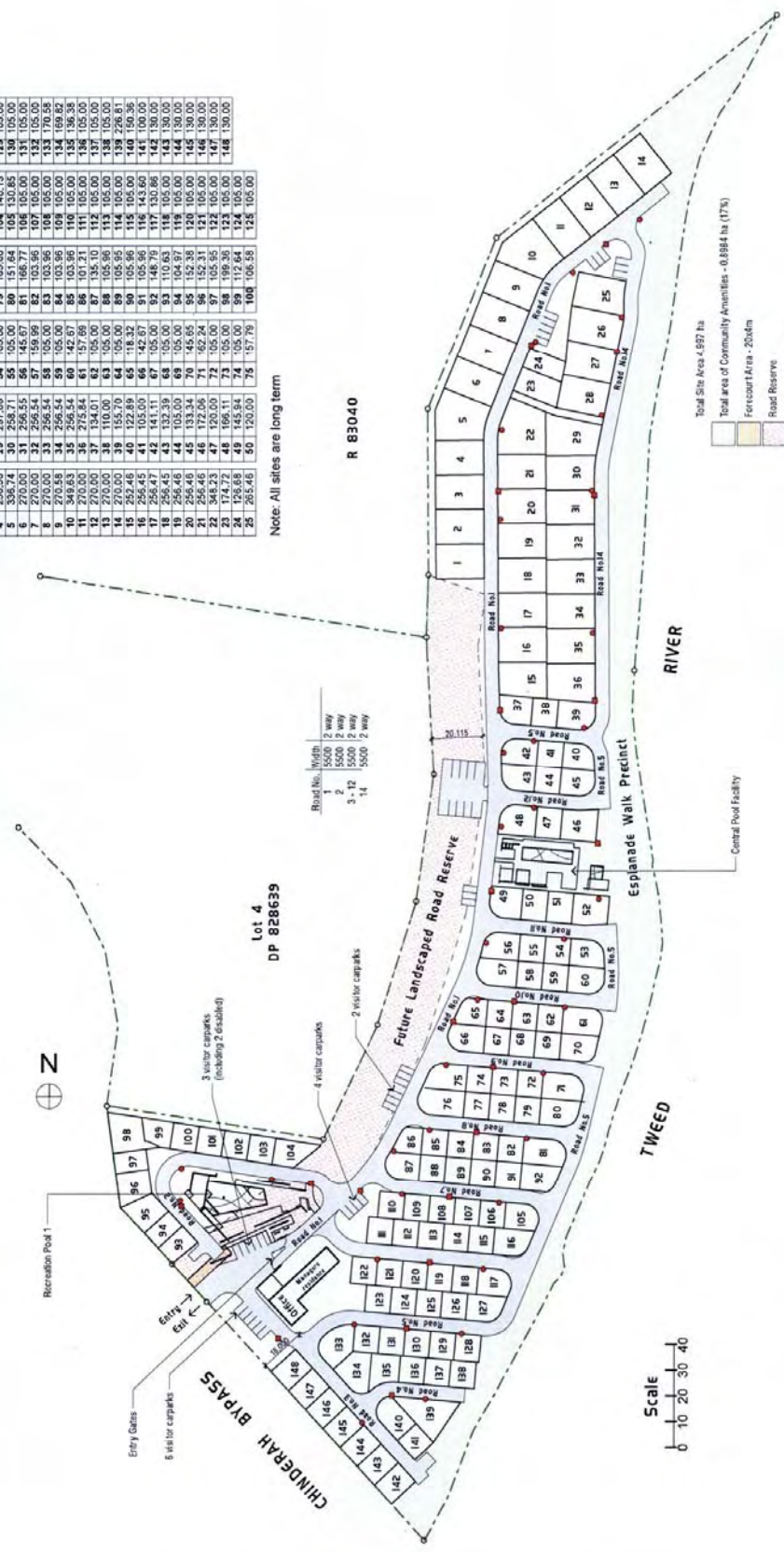
**SITE DIAGRAM:**



APPLICANT'S COMMUNITY MAP LODGED 5 MARCH 2009 (NOT APPROVED BY COUNCIL TO DATE)

Lot #	Area # (SCM)	Area #	Lot #	Area # (SCM)	Lot #	Area # (SCM)	Lot #	Area # (SCM)	Lot #	Area # (SCM)
1	256.50	26	277.32	51	120.00	101	106.57	126	105.00	
2	256.50	27	260.84	52	163.32	77	105.00	102	106.57	
3	256.50	28	260.84	53	163.32	78	105.00	103	106.57	
4	256.50	29	260.84	54	163.32	79	105.00	104	106.57	
5	336.74	30	258.71	55	105.00	80	151.84	105	130.85	
6	270.00	31	256.55	56	145.67	81	166.77	106	105.00	
7	270.00	32	256.54	57	159.99	82	103.96	107	105.00	
8	270.00	33	256.54	58	105.00	83	103.96	108	105.00	
9	270.00	34	256.54	59	105.00	84	103.96	109	105.00	
10	349.63	35	256.54	60	142.87	85	103.96	110	105.00	
11	270.00	36	275.84	61	157.66	86	101.21	111	105.00	
12	270.00	37	134.01	62	105.00	87	135.10	112	105.00	
13	270.00	38	105.00	63	105.00	88	105.95	113	105.00	
14	270.00	39	105.00	64	105.00	89	105.95	114	105.00	
15	252.48	40	122.89	65	118.32	90	105.96	115	105.00	
16	256.45	41	105.00	66	142.87	91	105.96	116	143.60	
17	256.47	42	141.11	67	105.00	92	148.79	117	130.86	
18	256.45	43	132.39	68	105.00	93	110.63	118	105.00	
19	256.45	44	132.39	69	105.00	94	110.63	119	105.00	
20	256.48	45	133.34	70	145.65	95	152.38	120	105.00	
21	256.46	46	172.06	71	162.24	96	152.31	121	105.00	
22	348.23	47	120.00	72	105.00	97	105.95	122	105.00	
23	174.72	48	106.11	73	105.00	98	199.39	123	105.00	
24	256.45	49	105.00	74	105.00	99	105.95	124	105.00	
25	256.46	50	120.00	75	137.79	100	106.58	125	105.00	

Note: All sites are long term



1252 River/ Banora Point Caravan Park  
 Lot 5 DP 828639 & Lot 382 DP 755740  
 Project

Lifestyle Resorts  
 Client

Community Map  
 A0.04



## **Background & Report**

As detailed within the Council report of 18 November 2008 the new owner of the site has decided to proceed with the refurbishment of the previously approved caravan park (by utilising the previous approvals rather than a new DA).

Since this time Council has been trying to liaise with the applicant to obtain applications for stormwater works, sewer works, and earthworks.

Some of the required information has been submitted to Council, however, there are other outstanding matters that have been brought to the applicant's attention.

Note: The below list of outstanding matters has not incorporated an assessment of the information supplied by the applicant on 5 March 2009. Council officers will continue to review the latest submitted material as soon as possible and provide an update to Council (by way of memorandum) on 17 March 2009 before the Council meeting.

Following is a status update on all matters:

### **S68 Applications for Sewer & Onsite Sewerage Management**

#### Council Application SEW08/0500

This application has been cancelled.

#### Council Application SEP08/0016

This related to an application for a pump station. An approval was issued on 19/11/2008.

#### Council Application SEW 08/0090

This relates to an application for a pump station. Council's Senior Building Surveyor is co-ordinating the assessment of this application in consultation with Council's Environmental Health Officer.

A conditional approval can be issued that ensure ultimate compliance with Council's requirements.

In relation to the sewer rising main, it is a private rising main through Crown reserve over which the original developer was required to obtain an easement, which apparently never happened. Council's Water Unit must know what loading and pump flow rates are expected, and to be confident that the main is intact so that our system cannot discharge through it in a high level event. Council also has layers in the GIS for private sewers and rising mains. Council needs to know the location and size of the private SRM so that it can be included on the GIS layer. The easement should be benefiting the caravan park property and doesn't need to benefit Council, as it is not Council's infrastructure. These things should be part of the S68 Approval for the private pump station.

The applicant submitted an Engineers Statement on 5 March 2009 that has not been review to date. As detailed above this review will occur prior to the Council Meeting of 17 March 2009.

## **S68 Applications for Stormwater & Drainage**

### **Council Application SWD08/0628 & Council Application SWD08/0629**

Withdrawn

### **Council Application SWD08/0633**

SW drainage over whole site with 10 SW quality devices

Ready for issue if Council concludes no DA is required for filling as detailed below.

### **Council Application SWD08/0003**

Outdated (based on old S96) to be withdrawn by applicant.

Please note: The submission of works as executed plans for the water, sewerage and stormwater drainage infrastructure, and site works (filling), are required to be prepared in accordance with Development Design Specification D13, Section D13.15 Summary WAX Plans. These plans should be produced by a qualified surveyor and provided in the formats specified by D13.13.

Council is still awaiting this information.

## **Site Filling**

On 22 September Council received a letter from the applicant with an accompanying legal advice stating that in their opinion the site already has consent to fill to the required flood level, and that therefore the applicant will not be submitting a DA for the "topping up" of the site.

In November 2008 Council was still of the opinion that a DA was required for the filling works of the subject site.

Subsequently in December 2008 the applicant further substantiated their justification with additional legal advice.

This additional information was reviewed by Council's Planning & Infrastructure Engineer and Council's Registered Surveyor who provided as follows:

*In response to the letter from Wilshire Webb Staunton Beattie (18 December 2008), on behalf of the developer of the Banora Point Caravan Park, the following comments are provided regarding the issue of filling of the subject land, and in particular the statement from Landsurv "Datum Levels of 1967 Consent at Banora Point Caravan Park" (16 December 2008):*

*The condition of consent refers to filling of the land to RL 11. The condition does not specify units of measurement (although feet can be assumed), it does not specify a datum for measurement, and it does not specify whether the requirement is a minimum or a maximum fill level.*

*The assumption in the Landsurv statement that the applicable datum would be the permissible occupancy or mean high water mark is not agreed, as there is no valid basis for this assumption.*

*There are a number of varying datums that the condition could have referred to, all resulting in different final levels for the fill. It is considered that the applicable datum can not be properly determined without further evidence.*

*It is understood that approximately 0.3m of additional fill has been generally applied across the site to achieve a finished ground level of approximately RL 3.0m AHD as part of the current development activities. It is this filling that is the subject of concern for the Development Assessment Unit, as to its permissibility.*

*Council's current practice for approving the filling of land in Banora Point to increase flood immunity is to impose minimum fill requirements to design flood level. For the subject land, design flood level is RL 2.8m AHD. The costs of exceeding this level are borne by the developer, and additional filling is often necessary in order to create adequate fall for drainage and provide cover to underground services.*

*On the assumption that the fill level prior to the current development activities complied with the condition of development consent (that is, the caravan park operated for several decades at "11m" fill level), the additional fill is not considered a significant issue, or necessarily a breach of the consent conditions. The new fill exceeds Council's existing design flood level and therefore appears to meet current DCP-A3 requirements.*

*The additional filling would only create engineering concerns (and perhaps necessitate a new development consent) if it restricts existing drainage paths without providing adequate alternate services.*

Having regard to these comments Council needs to determine whether the additional filling constitutes the need for a new DA.

The Tweed LEP 2000 specifies that earthworks are defined as:

*"the addition or removal of any solid material on, to or from land, or any other work which will substantially alter the existing ground level or character of the surface of land"*

The site has been topped up by approximately 300mm.

Based on the above comments the works have not substantially altered the level of the land nor the character of the surface of land.

Therefore it is recommended that Council accept that no development application is required for the site earthworks previously undertaken at the site provided that the applicant demonstrate details of the source of fill including documentary evidence that the fill material is free from contaminants and acid sulfate soil.

## **Approval to Operate & The Community Map**

The applicant was previously requested to provide a Community Plan to ensure the site will be capable of complying with the relevant legislation and thus allow Council to issue an approval to operate.

The definition of a community map under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 is:

*Community map:*

- (a) *in relation to a manufactured home estate—means a scale map that accurately shows the road reserves, the community amenities and the dwelling sites within the manufactured home estate, and*
- (b) *in relation to a caravan park or camping ground—means a scale map that accurately shows:*
  - (i) *the access roads, community amenities and community buildings within the caravan park or camping ground, and*
  - (ii) *the number, size, location and dimensions of dwelling sites or camp sites within the caravan park or camping ground, and*
  - (iii) *in relation to a dwelling site or camp site within the caravan park or camping ground, the particular off-site parking space or spaces (if any) designated for use by the occupier of the dwelling site or camp site.*

The applicant provided a plan in January 2009 which was reviewed by Council's Environmental Health Officer. The following comments were provided:

*It is considered that the layout as proposed is generally in conformity with Community Map G1714 dated 29/04/99, which has been recognised by Council following advice from Stacks The Law Firm that this is the approved community map and allows for 157 long term sites and 18 short term sites, as the footprint appears quite similar. The total number of long term sites proposed has been reduced by 9 to 148 with each site as proposed greater in area. There is neither provision for nor application for short term sites therefore any approval issued should exclude this use.*

*If the applicant wishes to obtain an Approval to Operate a Caravan Park, the following information is required in order to make a detailed assessment of the proposal:*

1. *A completed Application to Operate a Caravan Park shall be lodged with Council together with payment of the respective fee.*
2. *A community map titled appropriately is requested that complies with the definition within Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. The map shall identify all sites, the office, Manager's residence, offsite resident carparking, visitor carparking (including those for people with disabilities), and community amenities (including open space) and buildings. It would be preferred to also identify the following on the*

community map: fire hydrants and hose reels, entrance and exit roads, forecourt, and direction of roads.

3. Clarification is also sought on a number of issues relative to Subdivisions 1 – 8 of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, which includes the following:
  - a. Clause 84 – Community amenities – Identify the areas reserved for recreation or other communal activities on the site in accordance with clause 84 including the proposed location of such area(s) and percentage of total land area.
  - b. Clause 87 – Dwelling sites to have road frontage – Site 98 on “Site Plan – Lot Areas A0.01” does not appear to have vehicular access to an access road.
  - c. Clause 88 – Setbacks from community buildings – Unclear from submitted plan. Demonstrate compliance with this clause for the Office/Manager’s residence, laundry block(s), shower/toilet block(s) and other community buildings.
  - d. Clause 89 – Setbacks of dwelling sites and camp sites from road frontages – Unclear from submitted plan.
  - e. Clause 92 – Entrance and exit roads – Unclear from submitted plan.
  - f. Clause 93 – Forecourt – No evidence of a forecourt provided.
  - g. Clause 94 – Width of roads – Unclear from submitted plan.
  - h. Clause 97 (3) – Visitor parking – Unclear from submitted plan.
  - i. Clause 98 – Visitor parking for people with disabilities – The location of parking spaces of this nature cannot be identified from the submitted plan.
  - j. Clause 99 – Road surfaces – Confirmation of what road surfaces are proposed throughout the site.
  - k. Clause 104 – Electricity supply – Confirmation is required from an energy supplier that each dwelling site can be supplied with electricity from a reticulated energy supply and that electricity will be supplied by means of an electrical circuit connected to a separate electricity meter.
  - l. Clauses 113 to 120 – Laundry facilities – Whilst a concession exists for toilet and shower facilities, the same concession has not been provided for laundry facilities. Please provide further information with regards to these clauses.
  - m. Clause 127 – Garbage removal – Confirmation is required from Council’s waste service provider that the site access roads are suitable for access of waste vehicles for servicing waste bins.
  - n. Clause 128 – Fire Hydrants – The civil drawings titled “Sewer House Connection Details” prepared by Westera Partners Pty Ltd dated May 2008 (Project Number G07/215 A – Sheets 16 – 19 of 19) submitted to Building Services do not cover the entire site and site numbers do not match “Site Plan – Lot Areas A0.01”. Please show compliance with this clause and include on the Community Plan for ease of reference.
  - o. Clause 129 – Fire Hose Reels – The civil drawings titled “Sewer House Connection Details” prepared by Westera Partners Pty Ltd

*dated May 2008 (Project Number G07/215 A – Sheets 16 – 19 of 19) submitted to Building Services do not cover the entire site and site numbers do not match “Site Plan – Lot Areas A0.01”. Please show compliance with this clause and include on the Community Plan for ease of reference.*

It is noted that the proposed layout does not appear to strictly comply with approved plans within development consents T4/2794 (17/3/86) and D94/15 (24/6/94), however, Council does have authority to vary the layout via the Community Plan. The applicant needs to specifically request this variation and justify the departures.

The applicant has submitted an updated "Community Plan" on 5 March 2009 which will be reviewed as soon as possible. The applicant also advised that an application for an updated licence to operate a caravan park will be lodged as soon as possible.

### Site Contamination

Council is in receipt of a Soil Analysis for Banora Point Resort prepared by Simmonds & Bristow Pty Ltd dated 23 December 2008 (Ref: J-0811-339).

Whilst the report indicates that the previous land uses do not appear to have contaminated the soil, the following matters have been raised that require further information to be submitted by the applicant:

1. The sampling locations identified in Figure 1 “Map of site and sampling locations” of the report were reviewed by Council’s Environmental Health Officer and appear to be inconsistent with the requested sampling locations, which were the sewage pump well, the central male/female amenities positioned near the pump well, and the old storage area on the north-east corner of the site.

Please confirm whether submitted samples were obtained from the requested locations and provide detailed plans that show the exact sampling locations and the previously existing structures in question referencing Community Map G1714.

2. Sampling does not appear to have been carried out within the central male/female amenities location as per the above request. Additional information is required for future assessment.
3. Please outline why NSW Contaminated Site Guidelines were not utilised during this assessment.
4. The NSW Contaminated Sites Sampling Design Guidelines advise that samples should be collected at the depth(s) where the level of contamination is expected to be the most significant. The report states that surface sampling has been undertaken between 0 and 150mm at the locations. Confirmation is required that material sampled was taken from the natural surface level prior to the current owner filling the site, not the current fill surface level.

5. Further details are required regarding how potential contamination as a result of sewage overflow from the sewage pump well and the central male/female amenities were assessed and determined.

The applicant was advised that the above additional information was necessary and Council received the following response:

*“In relation to the contamination sampling you have requested to be undertaken below, the Simmons and Bristow supplied to you, and your subsequent request for further information, we believe that insufficient guidelines were provided by yourself in relation to what testing was required of ourselves, and the location in which you wanted the testing done.*

*We are therefore rejecting your request to provide further testing. If you require further satisfaction that the area’s are not contaminated, we will allow council officers, or any licensed company contracted by council, access to our site in order to complete whatever reports are required to put council at ease. We are not prepared to cover the cost of any further reports that we believe are not legally required of us.”*

This response is not considered justified. Council has reviewed the submitted material and has sought clarification on the submitted report. The clarification required is linked to the applicant’s reports and should be available from the contractor. This request for clarification is not considered unreasonable.

It is recommended that Council continue pursuing this outstanding information from the applicant. Council staff will liaise with the applicant to detail the full scope of works required.

#### Traffic Control Plan

The applicant submitted a Traffic Control Plan.

In this respect the applicant was advised that:

*“Council notes your traffic control plan, however, Council does not approve TCPs, but we have no objection to its implementation. The plan was prepared by qualified consultants, and it is up to you as the developer to comply with relevant standards.”*

#### Onsite Construction

The applicant is still pursuing the possibility of onsite construction of manufactured houses.

Onsite construction is not permissible as discussed previously, Council notes that no additional information has been received from the applicant in relation to this matter.

#### Validity of Boat Facility 0910/2000DA

The applicant has not provided any additional information to demonstrate commencement of any prior approvals for the boating facilities.

## Landscaping

The landscaping plan was requested to review “the extent of works” to establish whether the activities constitute works within 40m of a waterway which would trigger the need for a permit from the Department of Water & Energy in accordance with the Water Management Act 2000.

This landscaping & regeneration plan has again been requested to ensure the development meets the legislative requirements, and ensures the protection of a sensitive coastal location. This request is now linked to a new DA for a boardwalk and two pools.

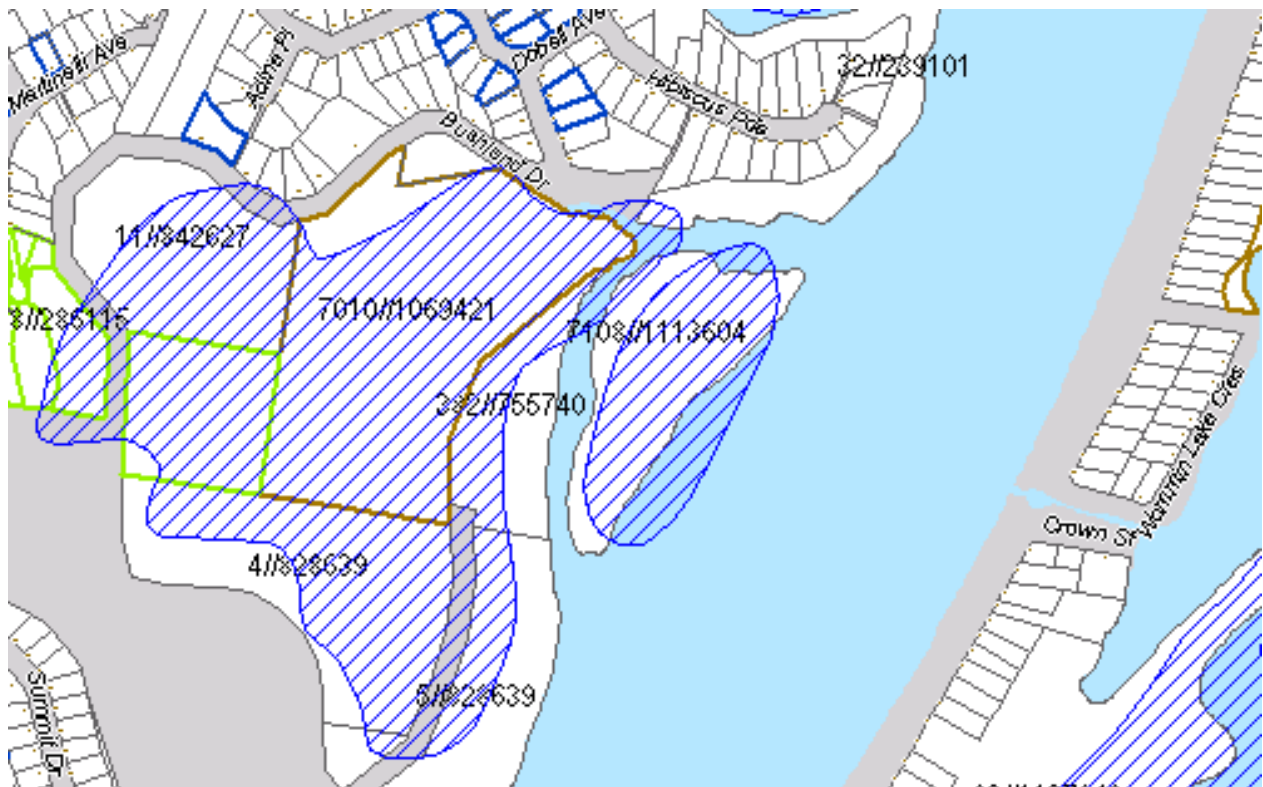
## Pool DA's – DA08/1032 & DA08/1033

The applicant has withdrawn two previous approvals for pools and lodged one new Development Application for two pools and a boardwalk along the Tweed River.

This application (DA09/0064) is currently on exhibition.

## Mapped SEPP 14 Land

The applicant has previously queried the process for amending the SEPP 14 maps which show the subject site affected by a mapped SEPP 14 (wetland):



The applicant has been advised that The Department of Planning is responsible for SEPP 14.

There is an avenue for persons to apply to the Department of Planning to alter SEPP 14 mapping based on elevation, micro topography, inundation regime, soil type and vegetation type. This would normally be done by the landowner, which in this case is the



applicant and the Department of Lands (as owner of the adjoining road reserve). The applicant in conjunction with the Department of Lands should pursue amending the SEPP 14 Map with the Department of Planning.

### Recent Media Release

On 6 March 2009, the applicant released the following media release and following images of the proposed development site:

***"FIRST HOME BUYERS IN RARE  
WATERFRONT OFFERING***

***RELEASED: 6 March 2009***

*First homebuyers will be given a rare opportunity to buy into waterfront property for under \$400,000 with the launch next weekend (Saturday, March 14) of the Morrison Group's innovative \$60 million gated residential precinct, River.*

*River will be a masterplanned community located on the only waterfront development site on the banks of the Tweed River at Barney's Point, near Tweed Heads – one of the most spectacular sites remaining in the Tweed region.*

*The Morrison Group, headed by Sally and Scott Morrison, have launched the first stage – a series of 13 two and three bedroom, architecturally designed river homes that will kick off a new community that will eventually consist of 150 dwellings.*

*"River is undoubtedly one of the most unique offerings to be launched on the Tweed for a number of years," said David Stringer, of D.J Stringer Property Services which is marketing the project.*

*"The community has been designed to maximise the lifestyle of the Tweed River with the creation of architecturally designed homes that accentuate all aspects of waterfront living."*

*River will include resort-style facilities including a gymnasium, pool, spa and lounge and will also include a boardwalk to maximise the private enjoyment of the Tweed River for owners.*

*A future marina is also proposed for the site.*

*Mr Stringer said the offering was targeted at a broad range of buyers from first home buyers to retirees at prices that would undoubtedly meet the market.*

*"These are very well priced, high quality river homes that will be part of a unique community on the banks of one of the area's most pristine waterways," he said.*

*"Price points present a unique opportunity for first home buyers to enter the market in what would become one of the Tweed's blue chip waterfront investment opportunities.*

*"There is only a small opportunity between now and June 30 for first home buyers to take advantage of up to \$21,000 for the first home buyers' grant and we believe this is one of the best offerings on the market for this category.*

*"The prices are simply unbeatable for this location for a gated community and buyers who get in during the early stages will stand in good stead for solid capital growth when the market turns."*

*River will see the restoration and re-development of one of the Tweed's most renowned sites, the former Banora Point Caravan Park, which was purchased by Morrison Group in 2007 for \$9 million.*

*The project will eventually accommodate a range of architecturally designed dwellings ranging from Terrace homes to freestanding dwellings.*

*The first stage will feature 13 river homes ranging from two to three bedrooms, four of which will be absolute waterfront.*

*The homes range in size from 136 to 167 square metres and will be priced from \$395,000.*

*River has been architecturally designed by Kingscliff-based firm Lightwave, which has designed a range of landmarks in the region including the Casuarina Beach Club, Paradiso Resort at Kingscliff, and Boundary Lane apartments at Rainbow Bay.*

*"The primary aim was to maximise the dollar value to appeal to first homebuyers and a savvy investment market," said Patricia Gosling, project director.*

*"All homes have been designed to take advantage of the fantastic river and/ or bushland views .... they will have the look and feel of a sophisticated beach or river holiday 'villa'."*

*Quality materials and finishes have been selected with long life and low maintenance in mind and ESD principles have been incorporated into the designs throughout.*

*The project marks a return to the general residential market by the Morrison Group which has developed a range of state of the art over 50s communities throughout Queensland and northern NSW over the last decade.*

*"We have spent many years perfecting the gated resort concept and we are very excited about introducing River to a broader market," said Sally Morrison, general manager of the Morrison Group.*

*"While the quality of retirement living has been improved in recent years by such a dramatic standard, there are very few projects in general real estate that offer the same level of quality.*

*"We believe River is a fantastic opportunity for home owners and investors alike to be part of a finite commodity – waterfront communities."*

*River is located just off the M1 at Barneys Point, one of the most tightly held real estate precincts in the Tweed region.*

*The site is five minutes to Kingscliff and Fingal beaches and five minutes to Tweed shopping centres, the Tweed CBD and less than 10 minutes to Gold Coast Airport.*

*David Stringer will be on-site this weekend while a sale office will be open from next Saturday, March 14.*

**ENDS**

**FOR FURTHER INFORMATION CONTACT STEVE HUNT, MEDIA HUNT COMMUNICATIONS, ON (07) 55 207 955."**



**RIVER - AERIAL (From Applicant's Press Release):**



**RIVER TERRACE HOMES (From Applicant's Press Release):**



**RESIDENTS FACILITIES (From Applicant's Press Release):**

As detailed within the Council report of 18 November 2008, the subject site benefits from the following approvals:

<u>Date</u>	<u>Consent Number</u>	<u>Approval</u>
14 November 1967	PN 1074	Filling of land to RL 11 and developing a caravan park and holiday units.
10 October 1983	T4/2795	Consent issued for the erection of 2 amenity blocks
17 March 1986	T4/2794	Extension to an existing caravan park to accommodate thirty six movable dwelling sites.
24 June 1994	D94/0015	Additions to existing caravan park to accommodate 5 relocatable home sites (these sites already existed and the DA was only lodged in response to the Council's request due to non compliance.
11 December 2000	DA 0910/2000	Boat Mooring & Launching Facilities
19 April 2001	DA 1198/2000	Erection of a demountable amenities building.

Whilst the original approval authorised a caravan park and holiday units the site consents have morphed into a development opportunity for a caravan park with a maximum capacity of 180 permanent home sites.

The new owner has decided to proceed with the refurbishment of the caravan park utilising the previous approval rather than a new DA.

Under State Government Planning Policy, the definition of "caravan park" can also include manufactured home sties.

The site therefore only has approval from Council for a caravan park and holiday units in accordance with the above consents.

It is the applicant's responsibility to ensure that any marketing material appropriately reflects what the site has development approval for. Furthermore, it is also the responsibility of the applicant to ensure that potential purchasers are aware that the site will be required to operated in accordance with both the Local Government Act and associated Regulations for Caravan Parks. The site does not have approval for a residential subdivision and has not been subject to any Torrens or Strata Title Subdivision.

### **Summary**

The outstanding information above is considered necessary to enable Council to be satisfied that an approval to operate can be issued.

Until all of the outstanding information is received Council would have no option but to withhold the approval to operate (which has yet to be submitted).

### **OPTIONS:**

1. Council request additional information and continue to negotiate directly with the owner to seek a lawful development across the site. Should the negotiations not

resolve in a lawful outcome within 2 months Council engage legal representation and seek their direction for the management of approvals and enforcement actions

2. Council engage legal representation and seek their direction for the management of approvals and enforcement actions relating to Lot 5 in DP 828639 & Lot 382 in DP 755740.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council will incur legal costs if legal representation is required.

**POLICY IMPLICATIONS:**

It is considered necessary to continue working with the owner to ensure the legislative requirements are upheld and that this results in a lawful development site.

**CONCLUSION:**

This report aims to inform all Councillors of the status of the project to date and to seek support for a further program for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. Council Report 18 November 2008 (DW1930873)
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