

TITLE: [PR-CM] Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/B15



Civic Leadership

SUMMARY OF REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (TLEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. Within the referred amendment, the preparation of a Development Control Plan (DCP) was required prior to the development of the subject site to address a number of matters. The most significant of these matters is the proponent's proposal to remove the currently identified future school site from the DCP.

To facilitate this process, the landowner requested a DCP amendment to Section B15 of the Tweed DCP, as it relates to the Seabreeze Estate (Seabreeze DCP). On 17 July 2012, Council resolved to publicly exhibit the Draft Seabreeze DCP.

The draft Seabreeze DCP was formally exhibited from 1 August 2012 – 5 September 2012, and included a Community Conversation, held at the Pottsville Community Hall on 28 August 2012.

During the exhibition period 43 submissions were received, predominately relating to the provision of school infrastructure within the Seabreeze Estate. A summary of those submissions and responses is provided within this report.

Within this exhibition period, written advice was received from NSW Department of Education and Communities which clearly stated that the Department does not require a school site in the Seabreeze Estate.

The draft Seabreeze DCP, having been widely consulted on, prepared having regard to ecologically sustainable development principles and the expressed views of the NSW Department of Education and Communities, is now considered suitable, and recommended, for adoption, including that amendment to remove the currently identified future school site from the DCP.

RECOMMENDATION:

That Council:

- 1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B15 – Seabreeze Estate, arising from the review of public consultation submissions;**

- 2. Endorses the Development Control Plan Section B15 – Seabreeze Estate, as amended, and provided as an attachment to this report;**
- 3. Endorses the public notice of the adoption of the Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53E(5) and 53E(6) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Seabreeze Estate – Stage 2; and**
- 4. Requests a copy of Development Control Plan Section B15 – Seabreeze Estate be forwarded to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000; and**
- 5. Endorses a review of the education infrastructure strategies and controls contained within Tweed Development Control Plan – Section B21 – Pottsville Locality Based Development Code within the next available housekeeping amendment.**

REPORT:

On 17 July 2012, Council resolved to publicly exhibit a draft Development Control Plan Section B15 – Seabreeze Estate (draft Seabreeze DCP). A copy of the Council report from 17 July 2012 is provided in Attachment 1 of this report.

The overarching intention of the draft Seabreeze DCP is to satisfy the provisions of Clause 53E(5) of the Tweed Local Environmental Plan 2000, enabling the urban use of land referred to as 'Seabreeze Estate Stage 2'. Specific to the site, the draft Seabreeze DCP seeks to:

- Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
- Remove the currently identified potential future school site in light of discussions with the landowner and NSW Department of Education and Communities;
- Reinforce the need for a 50m riparian buffer to Cudgera Creek, consistent with the Tweed Coast Estuaries Management Plan and previous Local Environmental Studies;
- Provide guidelines for high quality urban design built form, open space and public domain areas within Seabreeze Estate; and
- Improve the usability of the DCP through general housekeeping revision.

The draft Seabreeze DCP was formally exhibited from 1 August 2012 – 5 September 2012. During the exhibition period 43 submissions were received, predominately relating to the identified potential future school site within the Seabreeze Estate. Consultation also included a Community Conversation, held at the Pottsville Community Hall on 28 August 2012. This was attended by approximately 84 community members, Councillors and the Federal Member for Richmond, Justine Elliot.

School Infrastructure

As detailed within the 17 July 2012 Council Meeting, the request to remove the 'Potential Future School Site' designation was made as a result of a variety of factors, namely:

- Discussions with Department of Education and Communities (DEC) staff over the past 12 months have identified that there is currently insufficient demand to warrant a high school within the Pottsville locality, however demand may be present for a kindergarten and/or primary school;
- The provision of a new School in Pottsville is still contingent on enrolment projections at the current school at Pottsville being achieved and the Dunloe Park development progressing;
- Informal discussions with DEC staff indicate that whilst a potential school has long been earmarked for the subject site, it does not appear that the demand for such infrastructure will arise in the immediate to mid-term.

During the public exhibition period, formal comments from DEC regarding the potential school site were received by Council. A copy of the comments received is provided within Figure 1.

FIGURE 1 – Advice received from NSW Department of Education & Communities

Joshua Townsend
 Planning Reform Unit
 Planning and Regulation
 Tweed Shire Council
 PO Box 816
 Murwillumbah NSW 2484

SEABREEZE EST DEV.
 DCP - B15

TWEED SHIRE COUNCIL	
FILE No:	GT10CP/B15 #1
DOC. No:	55901585
REC'D:	- 5 SEP 2012
ASSIGNED TO:	TOWNSEND, J
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

DGS12/1564
 Your ref: Draft Seabreeze DPC
 GT1/DPC/b15

Dear Joshua

**Tweed Development Control Plan 2008, Section B15
 Seabreeze Estate Pottsville, Amendment No 1.**

I write in response Tweed Shire Council's resolve to prepare and exhibit an amendment to Section B15 of the Tweed Development Control Plan, relating to the Seabreeze Estate, Pottsville (Draft Seabreeze DPC) and your email of 31 July 2012, inviting the Department of Education and Communities to comment on the planning proposal which is currently on Public Exhibition.

~ 54142476

The Department acknowledges that the developers proponent, Daryl Anderson Consulting, submitted a request to Tweed Shire Council in March 2012 requesting a Development Control Plan amendment to Section B15 (Seabreeze Estate). The DPC amendment seeks to remove the longstanding designation of the land as a school site to enable development of the land for approximately 160 residential lots.

The Department provided advice to Daryl Anderson Consulting Pty Ltd on the 4 October 2011 of its interest in identifying a primary school site in the Seabreeze Estate (Section B15). The Department also advised that it did not require a site for a secondary school.

In February 2012, the Department became aware of the proposal to develop a non government primary school in Charles Street Pottsville. It is understood there is a development application, currently before Tweed Shire Council for the 420 student Catholic school.

The Department undertook a high level needs analysis for the proposed amendment. This analysis indicates that public student enrolment demand generated by the B15 Seabreeze DPC amendment can be accommodated in existing government and proposed non government education facilities in the Pottsville area and therefore does not require a school site in the Seabreeze estate.

The Department's Regional Asset Planner will continue to monitor education needs in the Pottsville area and in consultation with Tweed Shire Council, continue to explore as a priority the identification of a future primary school site in the Dunloe Park Release Area.

Thank you for the opportunity to comment on the planning proposal. The Department requests that the Council continues to inform the Department of any significant changes to

the plans, new land rezoning and any new significant residential subdivisions in the area. Significant changes and/or new developments may warrant further analysis and investigations for essential education infrastructure.

As stated above, DEC have advised that a school site within the Seabreeze Estate is not required, rather, that options within the Dunloe Park residential development are to be explored to facilitate further public school facilities.

In light of the views of the state education provider, the specific retention of the site solely for school purposes is considered unwarranted and restrictive on the landowner.

The removal of the school site designation does not preclude a school being developed on the subject site in a legal sense as this is a permissible landuse under the existing 2(a) Low Density Residential zone. However, in a practical sense this is likely to be the net result as the landowner has expressed an intention to erect residential lots in its place.

Consideration of a future school site through consultation with the DEC and the wider community will be undertaken throughout the future planning processes anticipated at Dunloe Park. Alternatively, DEC or any other school provider are able to pursue school infrastructure on other land within the Pottsville locality, as schools are a permissible land use in all zones within the Tweed Local Environmental Plan 2000 except zones 1(b) Agricultural Protection, 4(a) Industrial, 6(a) Open Space and the Environmental Protection/National Parks zones.

Policy Housekeeping

Tweed Development Control Plan - Section B21 - Pottsville Locality Based Development Code (the Code) was adopted in April 2010. The Code, after considering population demographics, growth rates and the opportunities for further residential development within the locality, concluded there would be demand for an additional primary school and establishment of a local high school within the Pottsville locality. The Code undertook a desktop analysis of a number of potential sites and ultimately concluded identification of a school site within Seabreeze Estate or within the Dunloe Park Release Area should be explored as suitable priority locations.

The investigations undertaken within this draft Seabreeze DCP process supersede those investigations of the Code. Within Stage 2 of the Seabreeze Estate, Section B15 prevails to the extent of any inconsistency with the Code, nonetheless it is considered better planning practice that the two policy documents are consistent in light of the revised vision and circumstances for the site. It is recommended that the Code, as it relates to education facilities and the Seabreeze site be reviewed within the next housekeeping review and amendment/s under the Planning Reforms work program of policy maintenance.

Public Submissions

During the exhibition period 43 submissions were received, predominately relating to the identified potential future school site. Table 1 provides a summary of the submissions received, along with relevant planning comments.

Table 1 – Public Submissions Summary

Comments received	No. of Submissions	Planning comment
<i>School Infrastructure</i>	41	
<p><i>Issues:</i></p> <p>The 2011 census data also shows Pottsville has 1448 children under 9 and 1214 children 9 -19 years old. This would appear to meet the stated criteria of 1000 – 1200 required to necessitate a High school as quoted by the NSW Minister for Education in his letter to us in May this year. This is, of course, only one of the criteria but it is certainly indicative of the current and future need in the Pottsville area.</p> <p>There are 7 kindergarten classes at Pottsville primary, this data alone is enough to warrant a high school. The 2011 census data for the Pottsville area shows the population has gone from 3298 to 5735 in the last 5 years. The development of the Seabreeze estate has been a major contributor to this population increase.</p> <p>The letter from the DEC also states that the need for a high school at Pottsville will be reviewed periodically. This indicates the potential for the future requirement of this site. The residential development identified as Area E in Banora and that in Seaside City will also increase capacity in existing schools contributing to the future need of a school site in Pottsville.</p> <p>Of the three potential High school sites identified in the Pottsville Locality Based Development Code (2010) the Seabreeze site was identified as the most advantageous in terms of access and location. With the many problems associated with developing the Dunloe Park residential area it would seem inappropriate to rely on this for the future High school site. The possible location in the Pottsville Employment lands was also found to be inappropriate in the 2010 Development Code.</p> <p>It is strongly felt in the community that the masterplan for the Seabreeze development promised many things including neighbourhood shops, a childcare centre and a school. These are factors which greatly contribute to the liveability of a residential area and contributed to the decision to buy into this development for many. The removal of the high school sporting fields, which seem to be currently identified as part of the Open Space strategy requirements for the existing stage of this development is a further consideration. The neighbourhood shops did not eventuate and now to have the potential for a school effectively removed is a further erosion of advertised future services. Many families have moved to the area with the view that the planning for the high school in the Seabreeze Estate would go ahead. Diminishing the probability of a high school in this suburb may well be the force that drives me and my family, and many others like us, from this area. It will be the death knell for the suburb. Granted, it will be a slow and painful demise, but it will change this</p>		<p>As identified within Pottsville Locality Based Development Code, the currently designated Potential School Site possesses a number of qualities that, from a community planning perspective, make it an advantageous site for school infrastructure. Additionally, best practice planning seeks to co-locate a mixture of land uses to facilitate vibrant community life. The provision of community facilities, such as schools is highly desirable where sufficient population is present to sustain them.</p> <p>As indicated within the Community consultation, the landowner remains open to the site being utilised for school purposes, however, to-date no school providers have made a firm commitment to purchase the site. The landowners have expressed that after 12 years of the site being earmarked, their commercial needs require them to move forward with the development of the site.</p> <p>Council's Planning Reform Unit acknowledges the public view that additional school facilities are desirable for Pottsville in light of its population and demographics. However, DEC, the state education provider, does not currently see a role for the earmarked site within the Seabreeze Estate within its wider school facilities network. In this regard, Council is not a school provider, accordingly it is considered appropriate to follow the advice received from a school provider, being DEC.</p> <p>The removal of the potential school site designation from the Seabreeze DCP does not preclude the construction of school facilities within the Pottsville locality. In this regard, DEC have indicated a desire to pursue a site within the future Dunloe Park development,</p>

Comments received	No. of Submissions	Planning comment
<p>region fundamentally.</p> <p>Council is charged with building the foundations of communities. Without appropriate allocation of land resources, all the other elements that aggregate to form healthy and sustainable communities come unstuck.</p> <p>Council should not allow this site to be sold off as residential lots without an alternative high school site in place I realise that families need housing and land to build on but it would be much more responsible to invite more families to the area once our ever increasing problem of High School overcrowding was immediately addressed.</p> <p>Currently the nearest high school is at least 40 minutes by bus and is quickly reaching capacity. Beyond Kingscliff, the only other alternative is to send children to Tweed Heads or Murwillumbah, which would be at least a 2 hour round trip. This is simply not an acceptable option.</p> <p>It is clear there is no suitable alternative site to that allocated in the Seabreeze estate, and should that preferred site be rezoned it would clearly set to unravel the fabric of the otherwise robust and vibrant community that exists in Pottsville.</p> <p><i>Suggested Outcomes:</i> The removal of this potential high school site before an equally suitable, alternative site is identified and acquired in the Pottsville area does not serve the public interest. It is inconsistent with two of the aims of the current and draft DCP, namely: "Ensure that necessary services and community facilities infrastructure are available in an orderly and economic manner" and to "facilitate cost-effective residential development of a high standard of amenity, convenience, safety and environmental sustainability".</p> <p>The application to amend the DCP should be rejected</p> <p>We therefore ask that the current amendment does not include the removal of the potential high school site and that all future applications for residential development within 'Stage 2' of the Seabreeze site continue to be required to be bound on this point by the provision of a high school site at Seabreeze.</p> <p>The site should remain designated as a site suitable for a school for the next five years.</p> <p>As suggested at the community meeting held in Pottsville this past Tuesday, any decision should be deferred until:</p> <ol style="list-style-type: none"> 1. The community (or representative of same) can discuss the decision of the Department of Education & Training (DET) with their representative, who to date have been conspicuous by their absence 		<p>in addition, schools are permitted land uses throughout the majority of zones under the Tweed Local Environmental Plan.</p> <p>Accordingly, it is not considered a necessity to earmark an alternative site 'in-trade' for the Seabreeze site until such time that DEC or an alternative school provider are willing to formally commit to a site, process or project. The process of Council earmarking an alternative site without an education provider commitment would likely inflate community expectation, without providing certainty to the construction of a school on any site.</p> <p>In light of the above, no amendment to the draft Seabreeze DCP is recommended, enabling the earmarked site to be developed for purposes other than a school.</p>

Comments received	No. of Submissions	Planning comment
<p>2. An expression of interest be placed by the landowners/developers for any private entity who may be interested in using the site for said purpose – a high school</p> <p>3. If the landowners/ developers are SO supportive of having a high school within the community, why is there a time limit on holding the land? The allocated 6 hectares is but a small part of a much larger development area.</p>		
Buffers		
<p>Commend the proposed increase in buffer from existing cane fields.</p> <p>Support the requirement of the 50m riparian buffer zones</p>	1	Comments noted, no further action required.
Sewer allocation	1	
<p>Stage 8 of the Seabreeze Estate is essentially complete and Council is therefore requested to delete this stage from Map 6.1 and make consequential amendments to Section B15.2.8 to adjust the ET allocations to Stages 15 – 17.</p> <p>The Draft Plan allocates a minimum of 10ET to the town centre. Given that the town centre site has an area of 2305m² and assuming 1000m² of shop GFA equates to 2 – 3 ET based on the rates in Council's Fees & Charges. Council is requested to amend this Section to allocate 3 ET to the town centre.</p>		<p>Within the draft Seabreeze DCP, a total of 200 Equivalent Tenement (ET) was identified as available to the land identified in Map 6.1 and that a minimum of 10 ET was to be allocated to the identified 'Town Centre'.</p> <p>Post receipt of this submission, Planning Reforms officers have met with the proponent on this matter, clarifying the methodology behind the stated 10ET.</p> <p>Further investigations have concluded that a minimum of 7ET is desirable in order to enable the creation of a vibrant activity hub for Seabreeze residents.</p> <p>The proponent has supported the revision of the stated Town Centre sewer allocation to 7ETs and the draft Seabreeze DCP has been amended accordingly.</p>
Key corner site land use	1	
<p>Council is requested to amend Maps 6A and 7A by deleting the 'potential open space location' and 'key corner site' etc. and inserting 'potential child care centre site'.</p>		<p>Post receipt of this submission, Planning Reform officers have met with the proponent on this matter, clarifying the desire for the key corner site to possess a landmark, whether that be by way of open space, architecturally designed multi-dwelling housing, or other means (such as architecturally</p>

Comments received	No. of Submissions	Planning comment
		<p>designed child care facilities).</p> <p>Planning Reform officers propose to amend the Draft Seabreeze DCP as it relates to the key corner site at the juncture of Tom Merchant Drive and Seabreeze Boulevard to read as follows:</p> <p><i>Investigate the provision of higher order land use and design excellence through the subdivision pattern and built form to reflect and reinforce the landmark location of the corner.</i></p> <p>The proponent supports the revision of key corner site controls. The draft Seabreeze DCP has been amended accordingly.</p>

OPTIONS:

1. Council approves the proponent's request and amend the draft Seabreeze DCP as detailed within Attachment 2, or
2. Council rejects the proponent's request to amend the DCP thereby retaining the existing Section B15 of the Tweed Development Control Plan.

Based on the written advice from the NSW Department of Education and Communities (DEC), the Council officers have recommended Option 1.

CONCLUSION:

A key component of the draft Seabreeze DCP is the requested removal of an earmarked potential school site to enable the development of that land for residential purposes.

The provision of an additional school for the Pottsville locality has long been discussed amongst the community, developers, Council and education providers. Since 2000, the subject land within Seabreeze Estate has been identified for a potential school site. When considering the previous land size allocation and surrounding infrastructure provision, the most likely use was for a high school. However, more recent population and demographic trends, as well as other factors in the way educational needs can be accommodated, have led Department of Education and Communities (DEC) to conclude that a high school is not required for the foreseeable future. Further to this advice, through the public exhibition process of the draft Seabreeze DCP, DEC has formally advised that a school site within the Seabreeze Estate is not required.

In light of the views of the state education provider, the specific retention of the site solely for school purposes is considered unwarranted and overly restrictive.

The removal of the potential school site designation from the Seabreeze DCP does not preclude the construction of school facilities within the Pottsville locality. DEC have indicated a desire to pursue a site within the future Dunloe Park development. In

addition, schools are permitted land uses throughout the majority of zones within the Tweed Local Environmental Plan 2000.

Accordingly, it is not considered a necessity to earmark an alternative site 'in-trade' for the Seabreeze site until such time that DEC or an alternative school provider are willing to formally commit to a site, process or project. The process of Council earmarking an alternative site without an education provider commitment would likely inflate community expectation, without providing certainty to the construction of a school on any site.

COUNCIL IMPLICATIONS:

a. Policy:

Council is being requested to amend Section B15 - Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008.

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development
- 1.5.2.2 Planning Controls updated regularly

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1 Council Meeting Report of 17 July 2012. (ECM 57502994)

Attachment 2 Tweed Development Control Plan – Section B15 – Seabreeze Estate, Pottsville. (ECM 57503009)