

TITLE: [PD-PC] Development Application DA05/1464 for Works within Stage 1 of the Concept Plan Including Land Clearing, Bulk Earthworks, Construction of Principal Roads and Other Services at Lots 1 - 18 Section 1 DP 14895, Lots 1 – 18 Section 2 DP 14895, Lots 1

ORIGIN:

Development Assessment

FILE NO: DA05/1464 Pt4

SUMMARY OF REPORT:

A development application has been received for earthworks and infrastructure works for the land known as Seaside City. The application also includes a concept plan for future development of the land. Two other concurrent development applications relating to Seaside City are on this agenda for consideration involving the land to the west (lot 1971) of the existing lots and the land to the east (lot 500) of the existing lots. A draft DCP for Seaside City is also on this agenda for adoption. A draft S.94 contributions plan and draft Planning Agreement have also been prepared.

The application has been submitted by the major landowner Richtech Pty. Ltd (85%). however the other owners (15%) have given owners consent for earthworks to be carried out on their land to enable landforming to be undertaken efficiently.

The applicants have lodged Class1 Appeals for deemed refusals for all three applications with the NSW Land and Environment Court.

Earthworks are for standard engineering purposes based on a cut and fill balance exercise and not for the purposes of increasing ground levels for building heights and views.

The draft DCP contains a plan for the site which nominates land uses and development standards. The development application includes a concept plan containing similar items. Two plans covering similar controls is not appropriate. The DCP plan is more comprehensive than the proposed concept plan and is recommended to replace the concept plan in the DA. A condition is proposed to facilitate this and the applicants have agreed to this course of action.

Eighty-seven submissions have been received for the development with seventy-eight of these objecting to the opening of the northern She Oak Lane cul-de-sac in Casuarina to link with the southern east west road in Seaside City.

Opening of the cu-de-sac is not recommended for approval. A condition is proposed deleting this from the development.

Works are proposed within Council's road reserves as such the recommendation includes the issuing of owners consent by Council.

RECOMMENDATION:

That: -

- A. Council grants owners consent to the Stage 1 works proposed in the development application.
- B. That upon written notification that Appeal No. 10217 of 2006 has been withdrawn Development Application DA05/1464 for Works within Stage 1 of the Concept Plan Including Land Clearing, Bulk Earthworks, Construction of Principal Roads and Other Services at Lots 1 - 18 Section 1 DP 14895, Lots 1 – 18 Section 2 DP 14895, Lots 1 – 16 Section 6 DP 14895, Lorna Street, Lots 1 – 36 Section 3 DP 14895, Lots 1 – 18 Section 4 DP 14895, Lots 1 - 16 Section 5 DP 14895, Lots 2 – 32 Section 7 DP 14895 & Lots 1 – 16 Section 8 DP 14895, Catherine Street & Lots 19 – 36 Section 2 DP 14895, Lot 17 - 32 Section 6 DP 14895 & Lots 1 Section 7 DP 14895, Carne Street, Kingscliff, Lot 1971 DP 133919 Ocean Avenue, Kingscliff and various unnamed roads and laneways be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos. 2967/03/03-210K, 211A, 212E, 213C, 214, 215H, 216D, 217C, 220A, 221C, 222C, 223C, 225B, 226B, 230, 233 prepared by Cardno MBK and dated 23 December 2004, except where varied by the conditions of this consent.

[GEN0005]
2. All dangerous goods, fuels and chemicals shall be stored in a secure area and shall not be permitted to flow or percolate to any watercourse, groundwater or drain.
3. All works shall comply with the Acid Sulfate Soils Management Plan, Cardno, December 2005.
4. All works shall comply with the Erosion & Sediment Control Plan, Cardno, December 2005.
5. Noise from the proposed works shall not be permitted to impact the amenity of any residential premise.
6. Prior to the commencement of works a report considering road noise from Casuarina Way shall be submitted to Council. The report shall compare road traffic noise projections to the NSW EPA Environmental Criteria for Road Traffic Noise and indicate areas which will receive noise levels above relevant criteria.
7. The site shall not be dewatered.
8. Following clearing works and prior to earthworks or commencement of construction works surface radiation monitoring is to be undertaken for the entire Seaside City site including Lot 500

DP 747420 and Lot 1971 DP 133919. The draft Seaside City Radiation report dated June 2006 is to be amended to include the results of the surface monitoring and the final report submitted to Council (including proposals for continuous monitoring during bulk earthworks and remediation plans, if applicable) for approval by the General Manager or his delegate. All works shall comply with the approved plan. Additionally, a post earth works surface radiation survey shall be completed and a validation statement provided to Council to the satisfaction of the General Manager or his delegate, prior to issue of a Construction Certificate or commencement of construction works, which (provides details of radiation monitoring on the site) establishes that surface radiation levels are below relevant NSW Health Action Levels and the site is suitable for the proposed use.

9. All works shall comply with the approved Water Quality Monitoring Program, Cardno, December 2005 and baseline values shall be agreed in writing with the Director of Environment and Community Services prior to the commencement of construction.
10. Runoff from the site shall not be permitted to flow or percolate from the site where the pH is outside the range 6.5 - 8.5 or SS exceeds 50mg/L.
11. The concept plan submitted with the application is not approved. The concept plan is to be replaced with the plan titled Building Controls Accommodation Area and the associated Built Form Controls Table contained in DCP No.55 Seaside City.
12. The opening of the northern She Oak Lane cul-de-sac is not approved.
13. This consent does not include approval for clearing or earthworks within any land zoned 7(f) Environmental Protection (Coastal Lands).
14. A dilapidation report detailing the current structural condition of the adjoining and adjacent buildings, infrastructure and roads is to be prepared and endorsed by a qualified structural engineer. The report is to be submitted to Council prior to commencement of works.

A second dilapidation report is to be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first report and recommend a course of action to carry out repairs if required. The report is to be submitted to Council.

[GENNS01]

15. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road

including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[GEN0045]

16. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

17. The works are to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

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

[PCC0285]

19. Prior to the issue of the Construction Certificate the applicant shall obtain written permission from non Richtech Pty Ltd property owners to authorise filling works inside these properties.

20. The Construction Certificate shall include detailed engineering plans clearly identifying the finished surface levels for the proposed Seaside City Development. The finished surface levels shown within the Construction Certificate shall be generally in accordance with Drawing No. 2967/03/03-215 H, 216D and 220A prepared by Cardno MBK.

In the event that permission from Non Richtech Pty Ltd land owners is not obtained for filling, earthworks associated with the road construction shall be carried out in accordance with Drawing No. 2967/03/03-230 and 231. The retaining wall shall be a reinforced concrete block wall and shall be located 50mm from the property boundary. The footing maybe located wholly inside the road reserve. Retaining walls constructed from timber or rock will not be permissible.

21. Trunk stormwater drainage shall be constructed generally in accordance with drawing Nos. 2967/03/03-215H, 220A and 221C.

The overland flow channel and underground R.C.B.C shall be extended west from Casuarina Way to the infiltration basin. This drainage system shall have a cross section similar to that shown on section 1, drawing 2967/03/03-221C. The open channel shall be

located entirely within public land with provisions made for satisfactory maintenance access. The dedication of any private land necessary to comply with this requirement shall be free of cost to Council

Hydraulic sizing for the infiltration basin nominated on drawing 2967/03/03 -221C shall also be provided.

22. The construction certificate application shall show how the second 225mm diameter rising main under Cudgen Creek will be installed. In addition, the plans must show how a third pump in the regional pump station located in SALT will be installed and detail the upgrading of the impellers in the other two pumps. These works will then be required to be constructed in accordance with the approved Construction Certificate.
23. The traffic turning head and carparks on the east end of the southern road is to be redesigned and removed from the 7(f) Environmental Protection (Coastal Lands) zone. Amended plans are to be submitted to Council for approval by the General Manager or is delegate prior to release of the construction certificate. [PCCNS01]
24. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision. [PCC0455]

25. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

26. **Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

Please note timber retaining walls are not permitted.

[PCC0475]

27. **All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.**

All fill and cut batters shall be maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

28. **Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works where it can be demonstrated all works are compatible.**

[PCC0495]

29. **A detailed plan of landscaping is to be submitted and approved by Council prior to the issue of a Construction Certificate.**

[PCC0585]

30. **A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.**

[PCC0865]

31. **The proponent shall submit plans and specifications with an application for a construction certificate for the following roadworks with associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.**

(a) Construction of Ocean Avenue between Casuarina Way (chainage 0.0) and Lorna Street (Chainage 300.00) shall be generally in accordance with Drawing No. 2967/03/03 -210K, 211A, 214, 215H and 216D.

- (b) The construction of Casuarina Way shall be generally in accordance with Drawing No.'s 2967/03/03 - 210K, 214 and 216D.
- (c) Construction of Lorna Street shall be generally in accordance with Drawing No.'s 2967/03/03 - 210K, 212E, 213C, 214 and 216D. The drainage of Lorna Street shall be as follows;
- (d) Underground road drainage and overland flow in Lorna Street shall be designed to drain in a northerly direction only to the open channel located at chainage 700. The intersection of Ocean Avenue and Lorna Street shall be designed to allow free passage of overland flow along Lorna Street in a northerly direction. No road drainage (underground or overland flow) shall be directed in a westerly direction down Ocean Avenue.
- (e) The construction certificate shall show how the low points located in Lorna Street at chainage 160 and 260 will be satisfactorily drained.
- (f) A concrete footpath minimum 1.2m wide and 100 millimetres thick shall be constructed on a compacted base along the entire frontage (both sides) of Lorna Street and Ocean Avenue in accordance with Council's adopted Design and Construction Specification.
- (g) The underground drainage system at the intersection of Carne Street and Ocean Avenue shall be designed to cater for the Q₁₀₀ storm event.
- (h) A concrete cycleway to the west of the development within lot 1971 DP 133919 linking the existing cycleways in SALT and Casuarina.
- (i) A concrete cycleway to the east of Lorna Street linking the coastal cycleways in SALT and Casuarina.

[PCC0875

32. Prior to the issue of a Construction Certificate the following detail in accordance with Council's adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

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

- stormwater drainage
- water supply works
- sewerage works
- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

33. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

34. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

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

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

[PCC1145]

35. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
 - (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
36. Where water is to be drawn from Councils reticulated system, the proponent shall: -
- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
 - Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
 - Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1155]

[PCC1205]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

37. Prior to the issue of a construction certificate, the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
 - (c) WorkCover Regulations 2000
38. The beachside car parking including parking for the disabled is to be in accordance with DCP2, AS 2890 and Austroads Part 11.

[PCC0015]

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. The designer shall ensure that on street car parking will not conflict or compromise access to residential driveways.

[PCC0065]

39. Any works to be carried out within the adjoining road reserve is subject to application and approval being issued by Tweed Shire Council as the road authority.

Application for these works and receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

40. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

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

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

[PCC0275]

PRIOR TO COMMENCEMENT OF WORK

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

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

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

[PCW0255]

42. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational

including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

[PCW0985]

43. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

44. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

45. Subdivision work in accordance with a development consent must not be commenced until:-

(a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:

- (i) the consent authority, or
- (ii) an accredited certifier, and

(b) the person having the benefit of the development consent:

- (i) has appointed a principal certifying authority,
- (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0815]

46. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier shall be erected and maintained in a prominent position entry to the site in accordance with Councils adopted Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0825]

47. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.
- [PCW0835]
48. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.
- [PCW0005]
49. A Construction Management Plan shall be submitted to Council for approval prior to the commencement of works. The plan shall be to the satisfaction of the Director of Environment and Community Services and shall address all relevant issues including noise, erosion control, security, dust, hours of operation, fuel and chemical storage, waste and complaints handling etc. All works shall comply with the approved Plan.
50. The carparking proposed for the southern side of the southern east west road indicated on the plan 2967/03/03-225 Rv B is to be relocated to the northern side of the road. An amended plan is to be submitted to Council for approval by the General Manager or his delegate prior to commencement of work.
51. Prior to commencement of work an audit of the *Banksia integrifolia* trees is to be undertaken on the site. The *Banksia integrifolias* are to be replaced at a rate of one for one within the final landscaped areas of the site, Lot 1971 DP133919 and lot 500 DP727420 as part of the revegetation plans for those sites. An additional 30% to the removed *Banksias integrifolias* consisting of local indigenous native species is to be planted in the same areas. A schedule of species is to be submitted to Council for approval by the General Manager or his delegate prior to planting. Management of the replacement plantings to be undertaken in the same manner for the vegetation plans approved for lots 1971 (DA 05/0793) and 500 (DA 05/0775).

[PCWNS01]

DURING CONSTRUCTION

52. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Friday from 7.00am to 7.00pm

Saturday 7.00am to 12.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

- 53. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:**
- A. Short Term Period - 4 weeks.**
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.**
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
- 54. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.**
- [DUR0415]
- 55. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.**
- [DUR0805]
- 56. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.**
- [DUR0815]
- 57. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.**
- [DUR0985]
- 58. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -**
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
- 59. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.**
- [DUR1015]

60. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

61. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

62. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR2185]

63. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

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

[DUR2375]

64. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

65. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.

[DUR2415]

66. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

67. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

68. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

69. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

The approved haul route for the transportation of filling to the site is via Old Bogangar Road and Casuarina Way.

[DUR0725]

70. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

71. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.

[DUR0755]

72. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

[DUR0785]

73. The proposed earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply

with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

74. All fill and cut batters shall be obtained wholly within the subject land.

[DUR0825]

75. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority.

[DUR0845]

76. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties.

[DUR0865]

77. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

78. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.

[DUR1045]

79. A concrete ribbon footpath minimum of 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of Lorna Street and Ocean Avenue (both sides) in accordance with Councils adopted Development Design and Construction Specification.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

[DUR1735]

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

(a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.

(b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.

- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

81. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.

[DUR1815]

82. During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.

- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.

- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

83. Provision of temporary turning areas and associated signage for refuse vehicles at the end of roads which will be extended in subsequent stages. The temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.

[DUR1835]

84. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

85. Pram ramps are to be constructed at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.

[DUR1855]

86. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.

[DUR1865]

87. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during

construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

88. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

89. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

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

Sewer Pump Station

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

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

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

90. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
[DUR1955]
91. The written consent of the registered proprietors of adjoining land, where the said works encroach thereon is to be submitted to Council prior to works commencing.
[DUR2005]
92. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
[DUR2015]
93. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.
[DUR2025]
94. Drainage Reserve
- (a) Dedication of the proposed drainage reserve at no cost to Council.
- (b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.
- Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.
[DUR2295]
95. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. Drainage must be installed and operational prior to commencement of any building work.
[DUR2325]
96. Provision of a stormwater drainage system in accordance with the approved Construction Certificate.
[DUR2345]
97. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils adopted Design and Construction Specification.
[DUR2355]
98. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location o the hydrant

shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

99. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate to allow the land to be classified.

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

[DUR2635]

100. The works proposed in DA 05/0775 and DA 05/0793 are to be undertaken in conjunction with the works proposed in this consent (DA 05/1464). Final approval for the works in DA05/1464 will not be issued unless the works proposed in DA05/0775 and DA 05/0793 have progressed to a satisfactory level as determined by the General Manger or his delegate.

101. A minimum of 223 on street carparking spaces are to be provided for beach access east of and including Carne Street.

[DURNS01]

USE

102. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

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

[USE0155]

104. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

105. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

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

The bond shall be based on 5% of the value of the works (minimum \$1,000) which will be held by Council for a period of 6 months from

the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

107. Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

108. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

109. All landscaping requirements shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate.

[PSC0485]

110. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

111. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual and Councils adopted Design and Construction Specification.

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

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

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

[PSC0735]

112. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

113. A Subdivision Certificate will not be issued by the General Manager until such time as all relevant conditions of this Development Consent have been complied with.

[PSC0825]

114. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- (a) Easements for sewer, water supply and drainage over ALL services on private property.
- (b) All roof water drainage is to be discharged to infiltration trenches/devices located on each contributing allotment.

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

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

[PSC0835]

115. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

116. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**
- (b) all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.**

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

[PSC0885]

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

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

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

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

[PSC0905]

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

- (a) Compliance Certificate - Roads**
- (b) Compliance Certificate - Water Reticulation**
- (c) Compliance Certificate - Sewerage Reticulation**
- (d) Compliance Certificate - Sewerage Pump Station**
- (e) Compliance Certificate - Drainage**

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.**
- 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".**

[PSC0915]

120. The six (6) months Defects Liability Period commences upon the registration of the Subdivision Certificate.

[PSC0925]

121. Your attention is invited to conditions of Development Consent DA05/1464. Compliance with the conditions of the development consent and the construction certificate is required prior to the issue of a subdivision certificate.

[PSC0935]

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

Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

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

[PSC1065]

123. Prior to the release of the subdivision certificate the proponent shall:

(a) Dedication of the proposed drainage reserve at no cost to Council.

(b) Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

[PSC1075]

124. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with DCP16 - Subdivisions Manual, Councils adopted Development Design and Construction Specifications and the Construction Certificate approval.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act , 2000 to be certified by an Accredited Certifier.

[PSC1115]

125. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.

[PSC1125]

126. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

127. Electricity

(a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and

(b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC1185]

128. A subdivision certificate application shall be lodged with Council for the creation of any new road reserves or drainage reserves.

129. Land for passive open space indicated on the plan titled Passive Open Space contained in DCP-55 Seaside City is to be dedicated to Council at no cost prior to release of the subdivision certificate for

road widening. In this regard Lot 1 Section 5 DP 14895 and the adjoining road reserve is to be embellished at no cost to Council. The plans detailing embellishment are to be submitted to Council for approval by the General Manager or his delegate prior to release of the subdivision certificate for road widening.

130. A restriction under the provisions of Section 88B of the Conveyancing Act is to be placed on the title of Lots 1 to 9 Section 8 DP14895 and Lots 17 and 18 Section 4 DP14895 indicating that part of the lots as indicated on plan 296703-VMP01 Rv 4 contained in DA 05/ 0793 are located within the 50m Cudgen Creek buffer area and no works, swimming pools or structures except fences are to be placed within this buffer area. A draft copy of the instrument is to be submitted to Council at least one month prior to lodgement of the subdivision certificate application for road widening.

GENERAL TERMS OF APPROVAL

PERMIT UNDER PART 3A OF THE RIVERS AND FORESHORES IMPROVEMENT ACT 1948

1. Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering Cudgen Creek.
2. Provision of stormwater quality treatment measures (in accordance with the Soil and Stormwater Management Plan) to ensure retention of pollutants and no detrimental water quality impacts downstream.
3. Excavated material may contain potential acid sulfate soils and shall be tested. If present then appropriate management measures shall be employed to control any acid sulfate soil impacts in accordance with the ASMACC Manual.
4. Excavation operations shall be conducted so as not to damage or cause erosion of the adjoining riverbank of Cudgen Creek.
5. Excavation operations and construction activities shall be conducted with minimal impact on riparian vegetation.

REPORT:**Applicant:** Richtech Pty Ltd**Owner:** Richtech Pty Ltd; Steven Blair, Leanne Connor, Michael Connor, Anthony Creswick, Zelma Creswick, Cudgen Superannuation Services Pty Ltd, Richard D'Apice, William D'Apice, Domlis Pty Ltd, Frizelle (Wholesale) Pty Ltd, Henry Gill, Rodney Gill, Gormell Pty Ltd, Harwood Willows Pty Ltd, Intact Group Australia-Asia Pty Ltd, Josip Jutrisa, Mira Jutrisa, Paula McKenzie-Blair, Noela Nunan, Maree Sandifort-Westhoff, Timothy Sandifort-Westhoff, A St George, Dudley St George, Terence Staines, Tunfall Pty Ltd & Keith Wright**Location:** Lots 1 - 18 Section 1 DP 14895, Lots 1 – 18 Section 2 DP 14895, Lots 1 – 16 Section 6 DP 14895, Lorna Street, Lots 1 – 36 Section 3 DP 14895, Lots 1 – 18 Section 4 DP 14895, Lots 1 - 16 Section 5 DP 14895, Lots 2 – 32 Section 7 DP 14895 & Lots 1 – 16 Section 8 DP 14895, Catherine Street & Lots 19 – 36 Section 2 DP 14895, Lot 17 - 32 Section 6 DP 14895 & Lots 1 Section 7 DP 14895, Carne Street, Kingscliff, Lot 1971 DP 133919 Ocean Avenue, Kingscliff and various unnamed roads and laneways**Zoning:** 2(e) Residential Tourist, 7(f) Environmental Protection (Coastal Lands) and 7(l) Environmental Protection (Habitat)**Cost:** \$6,685,000**BACKGROUND:**

Seaside City consists of a subdivision comprising 204 lots which were created in 1927. The land was sand mined throughout the 1960's, 70's and 80's.

Ownership of the land is divided between Richtech who own 85% of the existing lots and various individual owners who hold the remaining 15%.

There are 205 existing lots (including Lot 1971), 174 owned by Richtech and 31 lots owned by others.

The original application did not include the non Richtech land however discussions have taken place with the other land owners and they have provided owners consent to carry out earthworks on their land.

Proposed Development

The key elements of the proposal are as follows-

- Clearing of vegetation
- Cut and fill earthworks
- Dedication of land for public open space
- Construction of the western cycleway within lot 1971
- Widening and improvements to Casuarina Way

- Widening and construction of Ocean Avenue including 90 deg on street parking
- Construction of Lorna Street including on street beachside parking
- Construction of the southern east west road including 90 deg on street beachside parking
- Stormwater infrastructure including major east west overland flow path and infiltration basin in lot 1971.
- Water mains in Casuarina Way, Ocean Avenue and Lorna Street
- Sewer mains in Casuarina Way, Ocean Avenue, Lorna Street and the northern central east west laneway including a rising main and pump station.

Concept Plan

The concept plan designates land uses and development standards for those uses. Adjustment to existing roads involving widening of laneways is also included in the plan. Open space is also nominated in the plan. These aspects are included in the draft DCP with modifications.

The concept plan nominates a village centre, tourist accommodation areas, medium and low density areas. The objective of the concept plan is to provide a strategy plan for future development which is also the objective of the DCP. The applicants have agreed to have the DA concept plan substituted with the equivalent DCP plan.

Key Issues

Lot 1971

A separate application has been lodged for the vegetation management of Lot 1971 which is proposed to be dedicated to Council. Part of Lot 1971 is used for compensatory habitat for the blossom bat which was part of the conditions for the Casuarina development. A vegetation management plan forms part of the application including bushfire management. The western cycleway is proposed to be located within this lot to the rear of the existing lots on the western side of Casuarina Way. Conditions are proposed regarding dedication and timing of the works to link the proposals together. A separate agenda item further describes the proposal for Lot 1971.

Lot 500

A separate application has been submitted for vegetation management, cycleway construction and bushfire management for Lot 500. This lot is the coastal reserve and adjoins Seaside City to the east. Lot 500 is Crown Land managed by Council. The Department of Lands have granted owners consent for the development application. A 20 metre wide asset protection zone has been negotiated with the NSW Rural Fire Service, Council and the Department of Lands. This zone is located 10m either side of the boundary between lot 500 and the eastern Seaside lots. The proposed cycleway is located within the 10m area in lot 500. The separate agenda item further describes the proposal for Lot 500.

Cul de-sac

The application plans include linking the northern cul-de-sac in She Oak Lane in Casuarina with the proposed southern east west road in Seaside City. 78 public submissions have been received opposing this change to the road network. The purpose of the opening is to provide connectivity between the neighbourhoods and permeability through local streets. The theory of these aspects is sound and should be encouraged.

The Engineering & Operations Division advise that whilst the connection's effectiveness may initially be restricted due to the southern cul-de-sac on She Oak Lane, this cul-de-sac could also be connected into Kamala Crescent at a future date, improving the road network effectiveness. Similarly by also connecting the Beech Lane cul-de-sac into Kamala Crescent (again at a future date), a permeable and connective road network providing an alternative north-south road linking the northern precinct of Casuarina to the shopping centre in Seaside City.

It should be noted that the original development consent provided the connectivity discussed above and was later converted to a series of cul-de-sacs by Section 96 applications.

However, given the number of public submissions objecting to the connection of She Oak Lane to Seaside City and the immediate limited benefit of this connection, a condition is proposed deleting this aspect of the proposal.

It should be noted that the connection of the She Oak Lane cul-de-sacs and the northern Beech Lane cul-de-sac could still be pursued at a later date to improve the connectivity and permeability of the local road network.

Open space dedication

Open space is to be dedicated in accordance with the DCP plan. Dedication is required prior to final approval of the works. Embellishment will occur in accordance with the DCP and Planning Agreement. Passive open space is to be provided on site and in Lot 1971. S.94 contributions will be levied against future development for structured open space.

7(f) zone

The land to the east of Lorna Street is partly zoned 7(f) Environmental Protection (Coastal Lands). Nineteen of the thirty-four lots are owned by people other than Richtech Ltd Pty. The works involve earthworks and clearing on these lots from Lorna Street to the eastern 7(f) zone boundary. The filling will be battered down to the zone boundary. The separate application for the Lot 500 works includes clearing of the 10m strip within the private property only on the Richtech land. Separate applications for the 10m within the land owned by others will be required to be lodged to undertake this work on their land. These works will result in part of the land remaining vegetated however any further clearing work can be considered via future applications.

Other owners and funding of works

The other owners of various lots on the east and west side of Lorna Street have agreed to the proposal which involves works on their land. A section 94 plan has been prepared


identifying the costs of the works that benefit their land. These contributions will be levied on development applications lodged for the relevant lots. A planning agreement has been prepared to enable the cost of the works to be proportionally reimbursed to the major landowners from the benefiting landowners.

Owners consent

The proposal includes works within Council's road reserves. Accordingly Council is required to issue owners consent for these works. The recommendation makes provision for this to occur.

SITE DIAGRAM:



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| <p>© TWEED SHIRE COUNCIL 2006 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 816 Tel: (02) 6670 2409 Murwillumbah NSW. 2464 Fax: (02) 6670 2463</p> | <p><i>Tweed Shire Council</i> SEASIDE CITY</p> | <p>PLANNING REFORMS UNIT  Site Plan</p> |
| <p>File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Batchelor Date: 9/Oct/2006</p> | | <p>Scale: 1:6,000 Sheet: 1 of 1</p> |

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject land is zoned 2(e) Residential Tourist, 7(l) Environmental Protection (Habitat) and 7(f) Environmental Protection (Coastal Lands) under the provisions of the Tweed LEP 2000. The works are not proposed to be undertaken on the land zoned 7(f). A small part of the western part of Lot 1971 is zoned 2(f). This is an anomaly and can be rectified in the Shirewide LEP process.

Earthworks and infrastructure provision is permitted with consent from Council.

The objectives of the 2(e) zone are as follows: -

Primary objective

- * to encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities.

Secondary objective

- * to permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.

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

Primary objectives

- * to protect areas or features which have been identified as being of particular habitat significance.
- * to preserve the diversity of habitats for flora and fauna.
- * to protect and enhance land that acts as a wildlife corridor.

Secondary objectives

- * to protect areas of scenic value.
- * to allow for other development that is compatible with the primary function of the zone.

The proposal is not inconsistent with the objectives of the zones.

The stormwater detention basin is located within Lot 1971 which is zoned 7(l). The basin is permissible in the zone subject to satisfying Clause 8(2) of the TLEP 2000. Clause 8(2) is satisfied as the proposed location is the optimum location for the basin.

Clause 15 Essential Services

The development involves the provision of essential services. Water and sewer will be connected to the existing mains supply.

Clause 16 Height of buildings

The building height for the site is 3 storeys under the Tweed LEP. The application originally included a SEPP-1 objection with the Concept Plan for the height limit however this has been removed from the application and the three storey height limit remains in place for the site.

Clause 19 subdivision

The proposal involves widening Casuarina Way, Ocean Avenue and some of the laneways. Development consent is not required for a subdivision for the purposes of widening a public road.

Clause 35 Acid Sulfate Soils

The subject site is categorised as Class 4 for acid sulfate soils. Works 2 meters below ground level or works that would lower the watertable beyond 2 metres below the natural surface are required to be managed for acid sulfate soils. Works below two metres is limited to the stormwater detention basin. The proposal will not lower the water table. An acid sulfate soils management plan has been submitted and is satisfactory.

Clause 39 Remediation of contaminated land

Depth monitoring for radiation has taken place on the site. The monitoring has not revealed any radiation contamination. In addition to this a condition has been imposed requiring surface monitoring for radiation contamination to be undertaken following clearing works but prior to any earthworks. Post earthworks validation is also required to be undertaken.

Clause 39A bushfire protection

The subject site is bushfire prone. Clearing of the site is proposed which will remove the hazard. The development applications for the adjoining land to the east and west incorporate bushfire hazard management to enable dwelling houses to be built on the fringes of the estate. Conditions are to be imposed requiring the hazard management work to be undertaken simultaneously with the stage 1 works.

Clause 53C - Seaside City

- (1) This clause applies to land known as Seaside City as shown edged heavy black and coloured on the map marked "Tweed Local Environmental Plan 2000 (Amendment No 3)".
- (2) This clause aims:
 - (a) to ensure that development of the land to which this clause applies is undertaken within an appropriate planning framework, and
 - (b) to ensure that relevant environmental issues are considered before consent is granted to development of the land, and
 - (c) to facilitate the development of the land having regard to the subdivision and ownership patterns of the land.
- (3) Despite the Table to clause 11, development for the purposes of a dwelling or a dual occupancy may be carried out with consent on land to which this clause applies.
- (4) Development must not be carried out on land to which this clause applies unless a development control plan has been prepared for the land.

Note. See clause 39 in relation to the issue of contaminated land.

- (5) The development control plan referred to in subclause (4) must address the following matters:
 - (a) proposed land uses, including the proposed location of areas to be left in their natural state, tourist facilities, residential uses, commercial premises, recreation facilities and community buildings,
 - (b) proposed infrastructure,
 - (c) principles relating to the design of proposed development, including the concept of 'sense of place', the character of proposed development and the layout of proposed lots,
 - (d) the provision of an environmental buffer (in which no development is to occur except as provided in paragraphs (e) and (f)) to ensure the protection of any part of the following land that adjoins, or is within, land to which this clause applies:
 - (i) land to which State Environmental Planning Policy No 14—Coastal Wetlands (SEPP 14) applies, or
 - (ii) Cudgen Creek,
 - (e) the rehabilitation of land within the environmental buffer referred to in paragraph (d), including by the planting of coastal banksia and other species of plants,
 - (f) the provision of recreational cycle and pedestrian networks on the land, incorporating dual use pedestrian and cycle paths, including any such path within the environmental buffer referred to in paragraph (d) (other than any path located less than 25 metres from the boundaries of Cudgen Creek),
 - (g) the management of traffic issues relating to development of the land to which this clause applies, including:

- (i) proposed road corridors and road connections to adjoining land, and
- (ii) the provision of public car parking spaces within Zone 2 (e), and
- (iii) indicative public transport routes,
- (h) the management of stormwater run-off resulting from development of the land to which this clause applies, including measures that are consistent with the *Tweed Urban Stormwater Quality Management Plan*, to minimise any adverse effects from stormwater run-off on any of the following:
 - (i) Cudgen Creek,
 - (ii) land to which SEPP 14 applies,
 - (iii) Crown Reserve 1001008 (comprising Lot 500, DP 727420),

excluding the provision of any stormwater detention ponds or pollution traps within the environmental buffer referred to in paragraph (d),

 - (i) the impact of land form on requirements for trunk drainage,
 - (j) the management of any soil erosion and sedimentation resulting from the development of the land to which this clause applies,
 - (k) the management of any acid sulfate soils on the land to which this clause applies,
 - (l) the management of any bush fire issues relating to the land (including development of the land) to which this clause applies,
 - (m) the management of any adverse impact of development on the land to which this clause applies on Crown Reserve 1001008 (comprising Lot 500, DP 727420),
 - (n) access to the coastal foreshore,
 - (o) measures to avoid any adverse impact of development on the land to which this clause applies on nesting or hatching of threatened species of turtles on land that adjoins the land to which this clause applies and on the Queensland blossom bat.

The Development Control Plan is being prepared. The 3 development applications cater for the matters raised in Clause 53C of the TLEP 2000.

North Coast Regional Environmental Plan 1988

Clause 32B of the REP states-

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.
- (2) In determining an application for consent to carry out development on such land, the Council must take into account:
 - (a) the NSW Coastal Policy 1997,
 - (b) the Coastline Management Manual, and
 - (c) the North Coast: Design Guidelines.

- (3) The Council must not consent to the carrying out of development which would impede public access to the foreshore.
- (4) The Council must not consent to the carrying out of development:
- (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or
 - (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time)

The proposed development is not inconsistent with the above clause or the mentioned documents. The design of future buildings on the eastern lots will have to have regard for the above shadow requirements.

Buildings are not proposed eastward of the 7(f) zone line other than cantilevered structures. Ground level structures facilitating public access and recreation are proposed in the coastal protection area.

Public access to the foreshore will be enhanced with the construction of the missing link of the cycleway between Salt and Casuarina and formal access paths to the beach from Lorna Street.

The draft DCP has referenced the North Coast Design Guidelines and any future development is required to consider this document.

State Environmental Planning Policies

SEPP55 Remediation of Land

See comments above regarding radiation.

SEPP71 Coastal Protection

The aims of the SEPP are as follows-

- a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and

- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and
- (e) to ensure that the visual amenity of the coast is protected, and
- (f) to protect and preserve beach environments and beach amenity, and
- (g) to protect and preserve native coastal vegetation, and
- (h) to protect and preserve the marine environment of New South Wales, and
- (i) to protect and preserve rock platforms, and
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the [Protection of the Environment Administration Act 1991](#)), and
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
- (l) to encourage a strategic approach to coastal management.

Clause 8 of the SEPP requires the following matters to be considered -

- (a) the aims of this Policy set out in clause 2,
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
- (g) measures to conserve animals (within the meaning of the [Threatened Species Conservation Act 1995](#)) and plants (within the meaning of that Act), and their habitats,
- (h) measures to conserve fish (within the meaning of Part 7A of the [Fisheries Management Act 1994](#)) and marine vegetation (within the meaning of that Part), and their habitats
- (i) existing wildlife corridors and the impact of development on these corridors,
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,
- (m) likely impacts of development on the water quality of coastal waterbodies,
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,
- (p) only in cases in which a development application in relation to proposed development is determined:
 - (i) the cumulative impacts of the proposed development on the environment, and
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.

The proposed development is not inconsistent with the aims of the Policy nor the matters for consideration. The accompanying applications involve vegetation rehabilitation and enhancement of beach access. Stormwater is proposed to be managed through detention and infiltration. Replacement habitat planting is also proposed.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

N/A

(a) (iii) Development Control Plans (DCP's)

DCP-2 Site Access and Parking - The proposal involves on street parking for beachside public parking. Council's policy is 300 spaces per kilometre of Coast. The required beachside spaces for Seaside City is 223. The spaces provided in Carne Street and eastward of Carne Street are counted as beachside parking given their proximity to the beach.

DCP-16 Subdivision Manual – Whilst subdivision is not proposed the DCP is applicable regarding the provision of infrastructure, road construction and landforming. The proposal is consistent with the DCP requirements.

DCP-47 Cut and Fill on Residential Land – The DCP applies given the earthworks exceed 900mm of cut/fill however in this case the works are proposed for broad scale landforming rather than individual allotment works. The earthworks involve a cut and fill balance operation to provide a standard platform for infrastructure and future construction.

DCP-51 Tweed Coast Strategy – The proposal is not inconsistent with the Strategy as infrastructure, environmental protection, public access, compact development and a neighbourhood centre are all proposed as part of the development applications or facilitated in the site specific DCP.

(a) (iv) Any Matters Prescribed by the Regulations**NSW Coastal Policy****(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality****Cut/fill**

Up to 2.5 metres of cut and fill is proposed to be undertaken across the site. The former sand mining activity resulted in the land with hills and valleys that are not suitable for development. The land is not proposed to be filled beyond what is necessary for engineering purposes. A balancing of cut to fill is proposed with no importation of fill.

The earthworks are not proposed to be undertaken within the land zoned 7(f). Fill on the on the eastern blocks will involve grading the fill down to the 7(f) zone boundary.

Clearing

The site will be cleared excluding the land between the 7(f) zone boundary and the western edge of the 10m bushfire zone within the eastern lots. In this

regard the application for the eastern cycleway, dune revegetation and bushfire zone only includes lot 500 and the Richtech land (DA05/0775). Separate applications will be required to clear the 10 m zone on the non Richtech land and for all of the land between the 7(f) zone boundary and the 10m zone.

A section 5A test has been undertaken and the development is unlikely to have a significant impact on threatened species. Adjoining developments have undertaken compensatory and replacement planting of the coastal banksias which are an important food source for the common blossom bat. Conditions requiring a similar replacement scheme are proposed however given the large number of banksias that have been planted at Salt a diversity of species should be planted to avoid a monoculture developing (the replacement rate at Salt was 1 for 1 plus 30%). Bat monitoring at the adjoining Salt development over the last three years has revealed low numbers of the blossom bat visiting the site. The results don't present a conclusive reason why the numbers are low.

Stormwater

Stormwater is proposed to be collected via a piped underground system and overland flow paths to a detention basin located in the north west of the site within Lot 1971.

Carparking

Public on street parking is proposed which includes beachside parking. The parking within the southern east west road is located on the southern side of the road. Objections have been received from adjoining owners regarding the proximity of the carparks to their dwellings and the impact on amenity. Placing the carpark close to existing dwellings is likely to adversely affect the amenity of the residents. A condition is proposed to mirror reverse the carpark to the northern side of the road. With the carparks in place development of the north side lots can incorporate mitigation measures into the design of future dwellings such as fencing and orientation.

The plans indicate a turning head on the eastern end of the southern east west road within the 7(f) zone. A condition is proposed requiring this to be redesigned so that the turning area is located to the west of the 7(f)zone.

Construction management

The earthworks, clearing and roadworks will have a short term adverse impact on the adjoining residents during construction. A condition is proposed requiring a construction management plan to be submitted for approval prior to release of construction certificates. The management plan is to include provisions for noise, dust, dilapidation reports before and after construction for existing dwellings and a complaints handling process

Traffic noise

Noise from traffic travelling along Casuarina Way has potential to impact on future dwellings adjacent to the road. A noise report is required to be submitted that considers the NSW EPA Environmental Criteria for Road Traffic Noise.

Engineering Assessment

Geotechnical/Earthworks

The proposal is a balance cut to fill over lots under the ownership of Richtech Pty Ltd and non Richtech owners. In essence, the applicants propose to cut the western portion of the subject land and fill the eastern portion of the site.

The finished levels range from RL 10.0m AHD at the south-western corner of the site grading down to the north to RL 5.0m AHD near the eastern section of Ocean Avenue. From Ocean Avenue the finished levels then grades back up toward the SALT development. The northern boundary of the site adjacent to SALT has a proposed finished level ranging between RL 7 and RL 6.5.

The landforming plans eliminate the low point created at Ocean Avenue and grades the finished surface levels to the drainage corridor at chainage 700. The finished surface levels shown on the earthworks plans are satisfactory subject to the applicant obtaining permission from non Richtech owners to fill into their properties.

Roads

Road Network / Horizontal Alignment

The road network proposed by the applicant is as follows-

- Increase the road reserve of Ocean Avenue from 20m to 40m by combining lots 1 & 32 section 7 and lots 1 & 32 section 8 on the north side of Ocean Avenue between Casuarina Way and Lorna Street.
- Construct Ocean Avenue with two 6.0m wide pavements divided by a 5.0m wide central aisle and 90⁰ kerb side parking.
- The construction of a roundabout at the intersection of Carne and Ocean Streets.

Road Vertical alignment

The long sections provided indicate that the vertical alignment is satisfactory.

Road typical cross sections

The applicants have now submitted drawings 2967/03/03-216D and 230 showing the finished cross section for Casuarina Way, Ocean Avenue and Lorna Street. These drawings address the two situations that may arise when the applicants seek permission from the non Richtech owners to fill inside their property. The cross sections satisfy Council's requirements.

Intersections

The applicant will be required to show in the Construction Certificate that the roundabout is compliant with Austroads standards and can be “fitted” within the available road reserve.

The applicants propose to remove the existing (four) traffic calming devices along Casuarina Way. With recent development in Casuarina Beach and SALT, Casuarina Way now functions as a Neighbourhood Collector and possibly a Distributor Road. Given the road hierarchy of Casuarina Way it is appropriate that these traffic calming devices be removed.

The applicants show a roundabout at the intersection of Ocean Avenue and Carne Street, T- intersections at Casuarina Way/Ocean Avenue and Ocean Avenue/Lorna Street and the provision of a service lane to the east of Casuarina Way. This proposal is considered satisfactory.

Bus routes/Shelters

The application does not address the provision of public transport along Casuarina Way. An appropriate condition will be imposed requiring the provision of a bus stop and shelter along this section of Casuarina Way.

Footpaths / Cycleway

The footpath and cycleway network should connect the coastal foreshore and riparian areas with residential and commercial areas. In general, the following footpaths/cycleways will be required.

- Construction of a coastal cycleway within lot 500 linking the coastal cycleways in SALT and Casuarina Beach
- Construction of a cycleway to the west of the development within the riparian zone (1971 DP 133919) linking the existing cycleways in SALT and a future Casuarina cycleway to the south.
- Construction of links between the eastern coastal cycleway and the western riparian cycleway.
- Footpaths and pedestrian crossing points are to be provided along roads within the development generally in accordance with the Development Design Specification D1, Road Design Manual.

These requirements are consistent with the draft DCP for Seaside City.

Appropriate conditions of consent have been prepared and included in the recommendation.

Traffic Generation

Cardno Eppell Olsen has prepared a *Traffic Impact Assessment*. This assessment estimates the daily traffic volumes as follows:

- 800vpd on the northern internal road;
- 750vpd on the southern internal road;
- 2600vpd on Ocean Avenue;
- 10,500vpd on Casuarina Way north of Ocean Avenue;
- 12,500vpd on Casuarina Way south of Ocean Avenue

The daily two way traffic volumes for the residential streets are less than 3000vpd and therefore the Environmental Capacity of these streets will not be exceeded.

Parking

The proposed car parking is supported however when detailed design is undertaken care should be taken to ensure that the car parks do not conflict with future driveway access points. Conflicts between on street car parking and driveways became a major issue at SALT and consequently the designers must be diligent to ensure that the problem does not occur again.

Carparking along the southern boundary is to be relocated to the north side of the south road.

The applicant has submitted revised drawings 210K, 214, 225A and 226A showing the car parking provisions for the development.

Pedestrians

See footpath section above.

Stormwater Drainage

Allotment drainage / IAD

An appropriate condition of consent has been proposed to address this matter.

Road Drainage network

Conditions have been proposed to address the following;

- Underground road drainage and overland flow in Lorna Street shall be designed to drain in a northerly direction only to the open channel located at chainage 700.No road drainage(underground or overland flow) shall be directed in a westerly direction down Ocean Avenue.
- The construction certificate shall show how the low points located in Lorna Street at chainage 160 and 260 will be satisfactorily drained.

Trunk Drainage / Downstream Discharge

The bulk earthworks creates a low point along Ocean Avenue and located at approximately chainage 700. The low point at Ocean Avenue is unacceptable because of the flooding risk to the commercial precinct.

The applicants were advised of this concern and have subsequently amended their bulk earthworks plan so that the finished ground level grades from the south at a constant rate to a drainage corridor coincident with the open space alignment on the northern quarter of the site at approximately chainage 700. The northern quarter of the site still drains in a southerly direction to this open space alignment.

This constant grade will significantly reduce the likelihood of flooding along Ocean Avenue and is therefore supported. There is still a requirement to drain the Q_{100} flows across the Ocean Avenue intersection however this matter could be addressed with more detailed design.

The longitudinal gradient of the open space corridor will be about 1 in 200. The applicants are proposing a 1200mm diameter pipe or a 1800 x 600 RCBC to carry the Q_5 flows. In addition, the HEC-RAS analysis shows that a trapezoidal cross-section with a bed width of 8 to 10 meters is required to carry the Q_{100} overland flow along this open space corridor. No objection is raised to the applicants revised trunk drainage scheme.

Drawing 221C does not provide a typical cross section of the open channel west of Casuarina Way. To address this a condition of consent will be imposed as follows;

- The overland flow channel and underground R.C.B.C shall be extended from Casuarina Way to the infiltration basin. This drainage system shall have a cross section similar to that shown on section 1, drawing 2967/03/03-221C.

Stormwater Quality Management

Construction Phase

The applicants have provided an *erosion and sediment control plan* (ESCP). This plan has been prepared generally in accordance with Aus-spec D7.

It is accepted that the site is subject to low erosion risk due to the relatively flat grades and the high infiltration capabilities of the sand.

To prevent the loss of soil during the construction phase the applicant proposes the use of control devices such as temporary sedimentation ponds, sediment filter fencing, perimeter bunds, catch drains and shake down devices.

All these control devices are standard methods employed on most construction sites and are considered satisfactory.

Operational Phase

The applicants have prepared a Stormwater Quality Management Plan (SQMP) for the operational phase of the development. The SQMP is identical to that used in Casuarina and SALT with the principal elements being:

- Direct roof-water infiltration into infiltration pits from individual houses and buildings.
- Proprietary Gross Pollutant Traps to treat stormwater runoff from hardstand area's.
- Direct infiltration of runoff from roadways and other hardstand area's to infiltration basins located within the open space network.

Infiltration pits will be designed to accept roof water for the 3 month rainfall event.

In general, the SQMP is considered satisfactory given its effective use at both SALT and Casuarina.

The applicants have shown the location of the infiltration basin and provided a typical cross section through the basin. It is considered that this is satisfactory subject to the extension of the drainage system as required above.

Services/Utilities

Water Supply

The applicants have noted under section 3 of the Infrastructure report that the existing 450mm diameter main in Casuarina Way has sufficient capacity to supply the development. Furthermore, they advise that construction of 150mm diameter mains within the final road network will provide supply to the existing allotments.

The applicants have now provided a conceptual layout for water reticulation which is satisfactory.

Effluent disposal

The applicants have concluded that any additional development approvals on Seaside City or lot 490 will trigger the following works:

- Installation of the second 225mm diameter rising main pipe under Cudgen Creek.
- Installation of a third pump in the regional pump station located in SALT and the upgrading of the impellers in the other two pumps.

The applicants have submitted a revised sewer reticulation plan which locates the pump station clear of the open channel and shows how reticulated sewer will be provided to allotments. This plan is considered satisfactory.

Electricity

Country Energy has an overhead bulk service along Casuarina Way. It is assumed that adequate supply can be provided from this bulk service in Casuarina Way.

Environment/Amenity

Sediment control

Appropriate conditions of consent can be imposed to manage sediment control. In addition, the ESCP discussed above will satisfactorily control sediments during the construction phase.

Natural Hazards

Flooding

The subject property will range in elevation from RL 10m AHD to RL 5.0m AHD. These levels are well above the design Q₁₀₀ flood level of RL 2.6m AHD for the locality.

(c) Suitability of the site for the development

The land has been subdivided into town sized allotments since 1927 purposes. Seaside City is located between the Salt and Casuarina tourist residential estates. The works are proposed within the existing lot layout. The site is suitable for the proposal.

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

The application was exhibited in accordance with Council's notification DCP. Eighty-seven objections were received. Seventy-eight of these objected to the opening of the cul-de-sac at the northern end of She Oak Lane. This matter was discussed previously in the key issues section. A condition is proposed deleting this part of the proposal.

The matters raised in the balance of the submissions are summarised below with comments following-

- Clearing of lot 500 shouldn't be carried out, clearing should be on private lots.
- Intrusion into the creek buffer area.
- Carpark and beach shouldn't be counted as open space.
- Height should be 3 storeys with two storeys for houses
- Beach parking as per policy
- Sewer capacity
- Open space as per DCP –16
- Northern Lane should be open space link way not road.
- Level of land should be the same as Salt.
- Height should be 9.5 m and 3 storeys for houses
- Road transition from Salt
- Privacy and shadow from Salt in the north east corner

- Buffer zone 50m to the creek
- Public parking on north east/west road
- Fill height not the same as Salt
- No construction within the 50m creek buffer and not within the 100 year erosion line
- Traffic through Kingscliff
- Cudgen Creek Bridge

Comment

The common aspects of the submissions relate to height, lot 500, the creek buffer, filling and open space. The height of future development is restricted to three storeys. The DCP makes provision for 2 and 3 storey development. The finished level of the land will not be the same as Salt. Filling is to be undertaken to level out the site.

A 50 metre buffer to the creek is proposed. Part of some of the lots on the western side of Casuarina Way are within the buffer. Development will not be permitted in this area. Part of the cycleway is within the buffer this is considered acceptable.

Revegetation is proposed for lot 500 with a 10m asset protection zone for bushfire located on the eastern side adjoining the eastern lots in Seaside City. The cycleway is proposed within this 10m strip. See previous comments regarding open space and carparking.

The laneway on the northern side is proposed to be widened to enable vehicular access. This will be a standard residential street and will facilitate permeability within the estate and on street parking.

Open space is required to be provided in accordance with Council's standard of 2.83 ha per 1000 persons. The passive open space component is being provided on site within the estate and the balance located on the creek side within lot 1971. A viewing platform and non motorised boat launching facility are proposed. Credit above the area utilised by these activities is being applied given the value to the community of such facilities. The beach, carparks and outdoor eating areas have not been included in the open space calculation. The structured open space component will be levied through contributions when population generating development applications are submitted.

The road transition from Salt (Cylinders Drive) to the north east corner of Seaside City is considered acceptable. The change in grade does not justify filling the land. The southern most lot within Salt and the northern most lot in Seaside City are separated by a 6m wide laneway. Additionally a 10m easement for bushfire protection exists on the Salt lot preventing construction on the southern side of the lot. Design of future dwellings can cater for privacy and solar access issues.

Government Authorities

Department of Natural Resources

The Department has issued their terms and conditions for a Part 3A Permit under the Rivers and Foreshores Improvement Act for works within 40 m of the creek. They have also advised that if dewatering is undertaken a licence will be required.

Department of Environment and Conservation

The application was referred to the Department and they advised that no comments would be made.

NSW Fisheries

Fisheries comments will be discussed on DA 05/0793.

NSW Rural Fire Service

The management plan for Lot 1971 provides for a asset protection zone within lot 1971. The zone varies in width depending on the distance from the creek and the rehabilitation works. The RFS have advised that the proposed asset protection zones are suitable for dwelling house construction however if the design of siting of the buildings require a larger APZ then this will be required at the application stage for the building. This is discussed further in DA05/0793. The asset protection zone for the east side is discussed in DA05/0775.

(e) Public interest

Seaside City is one of the last significant land parcels to be developed South of Kingscliff. It is bordered by urban development and natural assets. It is in the public interest to develop this land sensibly and efficiently. It is considered that the proposal balances the provision of urban infrastructure, environmental protection and public access and provides a framework for future development that is consistent with government and community expectations.

OPTIONS:

1. Approve the application as recommended and the applicant withdraws the Appeals.
2. Seek a Court Order to approve the development.

Council will incur unnecessary legal expenses if Consent Orders are sought. The optimum position is for Council to deal with the application and determine it on the basis that the Appeal is withdrawn.

3. Refuse the application.

There are no justifiable planning reasons to refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will incur legal expenses as a result of the Appeal. These costs will be minimised if the recommendation is adopted.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Approval of the application will facilitate the initial important aspects of development for Seaside City site. Approval of this application, the two accompanying applications and adoption of the DCP will provide for a balanced development with good planning outcomes and a high standard of urban design.

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 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.
