

TITLE: [PD-PC] Section 96(1A) Application DA04/1528.03 for Amendment to Development Consent DA04/1528.03 for a Residential Subdivision (MOD 76-6-2006 modifying DIPNR DA 243-10-2004) at Lot 242 & 243 DP 1082837, No. 159 Overall Drive, Pottsville

ORIGIN:
Development Assessment

Attachment 1 - Planning report from Meeting of 15 August 2006.

FILE NO: DA04/1528 Pt3

SUMMARY OF REPORT:

A Section 96 modification has been lodged with the Department of Planning seeking an amendment to an approved residential subdivision. The subdivision will form the final stages of the Black Rocks Estate (Stages 13 & 14).

Pursuant to State Environmental Planning Policy No. 71 Coastal Protection, the Minister was the consent authority for the original application and is the consent authority for this Section 96 modification application.

The Section 96 modification has been referred to Council for comment.

The proposed amendments relate to four conditions of consent (imposed by the Department of Planning); as follows;

1. Amend condition B6 (b)(i) to enable the cycleway to be built at the bottom of the batter as opposed to the top of the batter as conditioned;
2. Amend condition B9(g) to enable the cycleway to be built at the bottom of the batter as opposed to the top of the batter as conditioned;
3. Amend condition G2 which requires a three monthly report addressing compliance with the relevant conditions of consent. The applicant seeks clarification that such reports are only needed until the subdivision certificate is issued;
4. Amend condition H2 which requires clarification of the phrase "development area";

Council need only respond to the Department of Planning in relation to amendments one (1) and two (2) above, as these were conditions derived from Council's recommendations. The remaining two amendments affect conditions imposed by the Department of Planning itself and the NSW Rural Fire Service. Therefore the Department of Planning as the consent authority will determine the S96 application in regard to amendments three (3) and four (4) above.

Subsequently, the following report reviews Council's previous decision in relation to the best location for the cycleway and recommends that conditions B6 (b)(i), and B9(g) remain as per the original conditions of consent and the Department of Planning be advised accordingly.

RECOMMENDATION:

That a copy of this report be sent to the Department of Planning for consideration as part of their report to the Minister.

REPORT:

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

BACKGROUND:

The original Council Report (attached under separate cover) details the extensive history to development of this site.

DCP 16 - Subdivision Manual and Tweed Shire Council's Estuary Management Plan, specifies the need for a 50m riparian buffer along Mooball Creek. The original subdivision was granted a variation in this regard to allow a batter and the cycleway to occupy approximately 16m of the 50m riparian zone. This variation was site specific and related to the previous arrangements made with Council that were documented within a Deed of Agreement. However, to ensure the 12m batter and the remaining 34m of the setback to Mooball Creek was available as a true riparian zone Council recommended to the Department of Planning that the footpath be located immediately adjoining the residential blocks to create a distinct delineation between public and private land. This will ensure the batter will be seen by residents as public land rather than being consumed by individual landowners.

This S96 specifically seeks to alter the conditions relating to the location of the cycleway to allow the cycleway to be built at the bottom of the batter. This would require the amendment to conditions, B6 (b)(i) and B9(g) which currently read as follows;

Condition B6(b)(i)

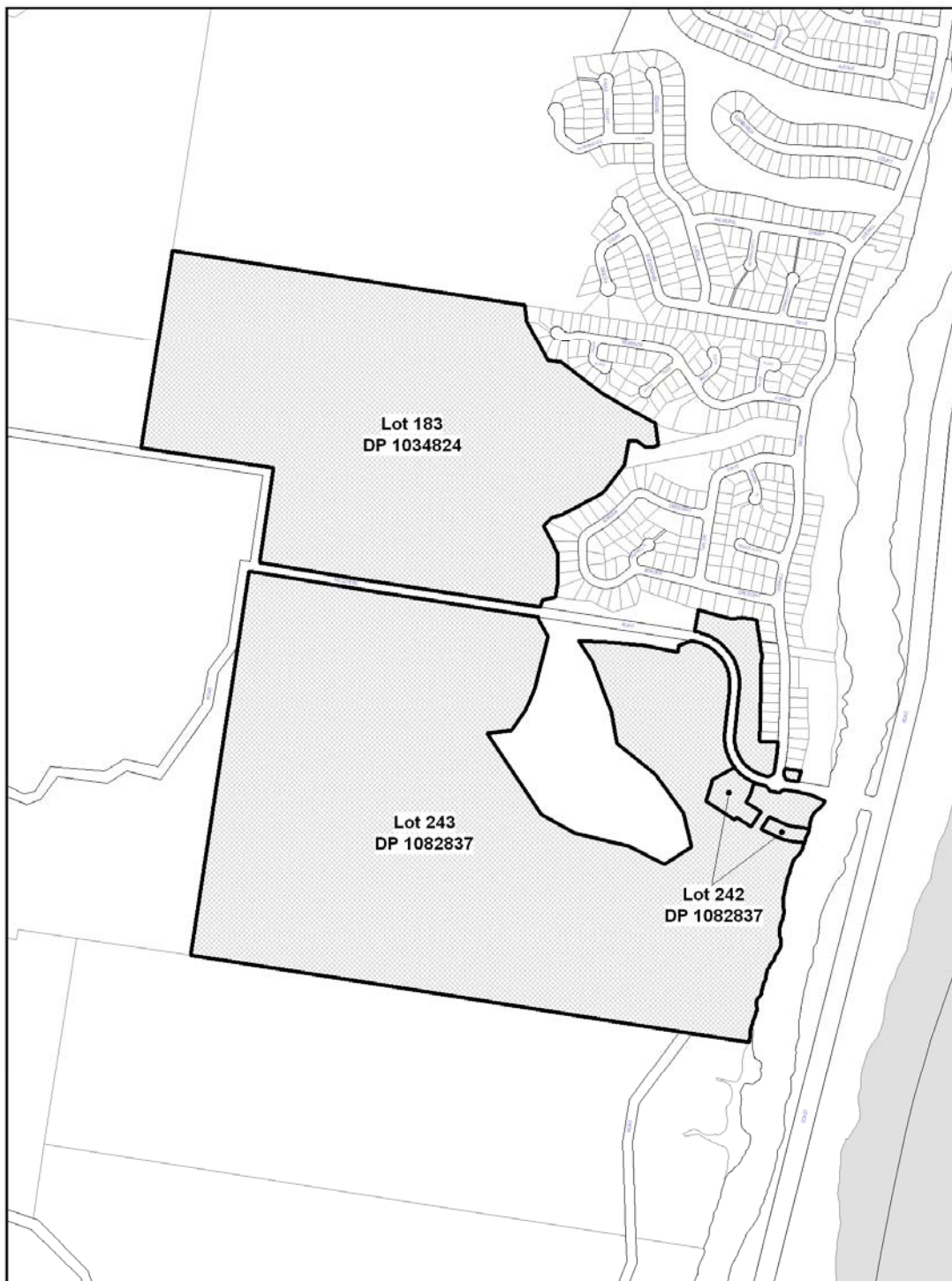
"The engineering plans and specifications to accompany the construction certificate application shall provide for;


- i) The cycleway is to be located on top of the batter adjoining proposed residential allotments."*

Condition B9(g) contains similar terms as follows:

"The cycleway is to be provided on the top of the batter."

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2005 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 616 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 242 DP 1082837 No. 159 Overall Drive, Lot 243 DP 1082837 Overall Drive and Lot 183 DP 1034824, Overall Drive Pottsville</p>	 <p>TWEED <small>TWEED SHIRE COUNCIL</small></p>	<p>STRATEGIC PLANNING UNIT</p> <p>Figure 1</p> <p>Scale: 1:10,000 Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>		<p>Author: J.Batchelor Date: 25/July/2005</p>	

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

The applicant has put forward the following justification for the proposed variations:

- *The existing cycleway/walkway constructed at the toe of the batter for all lots (with frontage to Mooball Creek) in previous stages north of the Black Rocks Bridge was constructed in accordance with the then requirements of Tweed Shire Council. This location for the cycleway/ walkway does not affect the privacy of existing lot owners and to date there have been no known security or amenity issues.*
- *Locating the cycleway/walkway at the top of the batter will adversely impact on the privacy and amenity of the rear yards of the abutting properties and may also give rise to security risks to those properties.*
- *Delineation of the property boundaries between the private lots and the public land (foreshore reserve) at the top of the batter can be achieved by the installation (by the developer) of an appropriate fence at the subdivision stage. In this regard the developer is prepared to construct an open type fence (details of which are to be approved by Tweed Shire Council) on the common boundary of the residential lots and the Mooball Creek foreshore buffer boundary to provide a defined boundary whilst still achieving surveillance of the cycleway/walkway and foreshore areas.*
- *The proposed cycleway/walkway is a relatively minor structure which would have negligible impacts on the foreshore area if it is located at the toe of the batter, based on operational experience in adjoining stages to the north. However to discourage informal use of the foreshore area (by pedestrians and cyclists) the applicant is prepared to erect a low post and rail fence on the eastern side of the walkway and erect appropriate signage.*

The proposed amendments to the cycleway conditions were referred to Council's Development Engineer who provided the following comments;

The proposal of the cycleway along the base of the batter is not supported due to the following reasons;

1. **The original consent for Stages 13 & 14 of the Black Rocks estate had a concession in regards to the width of the riparian buffer between the proposed subdivision and Mooball Creek. DCP 16 – Subdivision Manual, Section 4.2.3 requires a 50m riparian buffer along major streams such as Mooball Creek.**
2. **During discussions for the original development approval the Director of Engineering Services specified at a meeting held 27 June 2005 with the applicant and Council Officers, that the cycleway be placed on top of the batter to improve safety and amenity.**
3. **The cycleway placed on the top of the batter will permit native vegetation to revegetate up to the batter and along the slopes of the**

batter. If the cycleway was placed along the base of the batter facing Mooball Creek the width of the riparian buffer is further reduced and comprised.

- 4. Discussion was held with the Acting Director Engineering & Operations and the Infrastructure Engineer on 25 July 2006 in regards to placing the cycleway along the base of the batter. The Acting Director Engineering & Operations did not support the S96, agreeing with Director of Engineering Services comments that the cycleway improves safety, amenity and provides a greater width for the riparian buffer if placed along the top of the batter.**

Minimal Environmental Impact

Section 96(1A) of the Act provides that a consent authority may, on application being made by the applicant modify the consent if it is satisfied that the proposed modification is of minimal environmental impact.

The proposed amendment to the cycleway location will impact on available space for a riparian zone. Should the amendment proceed as per the applicants request the batter, which occupies approximately 12m, could not be used as part of the riparian zone as it would need ongoing maintenance (mowing) by Tweed Shire Council.

However, if the conditions are retained as per the original consent the 1:4 batter could be re-vegetated as a riparian zone which once established as a natural area would not require ongoing maintenance.

Therefore, the proposed amendment is not considered to be of minimal environmental impact and should be refused.

Substantially the Same Development

Section 96(1A) of the Act provides that a consent authority may, on application being made by the applicant modify the consent if it is satisfied that the proposed modification is substantially the same development as the development for which consent was originally sought.

The location of the cycleway will **not** result in a development that is substantially different, and therefore this matter can be considered under S96.

Advertising and Consideration of Submissions

Section 96(1A) of the Act provides that a consent authority may, on application being made by the applicant modify the consent if it is satisfied that the proposed modification has been notified as required by Regulations of a DCP, and any submission received has been considered.

The Department of Planning, as the consent authority, is responsible for any notification requirements, and the subsequent considerations of any submissions received.

OPTIONS:

1. Advise the Department of Planning that Council does not support the proposed amendments in regard to the cycleway location.
2. Advise the Department of Planning that Council supports the proposed amendments in regard to the cycleway location.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

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

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).*

1. Original Council Report DA04/1528 (DW 1240256)
 2. Department Determination DA04/1528 (DW 1332169)
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TITLE: [PD] Development Application DA04/1528 for a 76 lot Residential Subdivision (DIPNR DA 243-10-2004) at Lot 242 DP 1082837 No. 159 Overall Drive, Lot 243 DP 1082837 Overall Drive and Lot 183 DP 1034824, Overall Drive Pottsville

ORIGIN:

Attachment 2 - Planning report
from Meeting of 3 August 2005.

Development Assessment

FILE NO: DA04/1528 Pt2

SUMMARY OF REPORT:

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

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

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

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

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

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

RECOMMENDATION:

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

REPORT:

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

BACKGROUND:

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

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

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

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

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

The current application now seeks consent for:

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

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

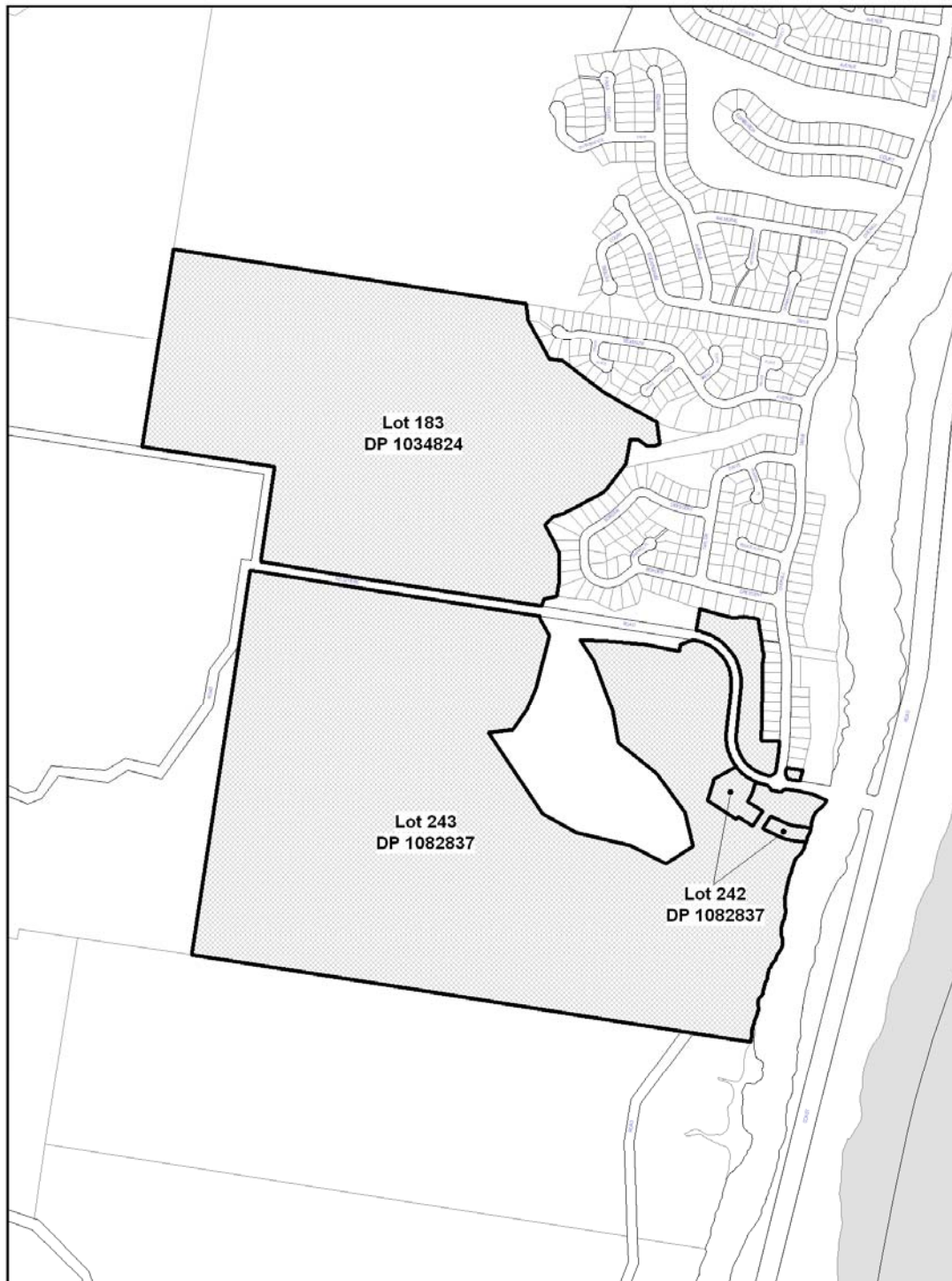
To facilitate transfer of Lots 301, 303, 304 and 305 in accordance with the terms of the Deed of Agreement the subdivision will be sequenced as follows: -

Phase 1 Create Lots 299 to 305;

Phase 2 Subdivide Lot 300 to create Lots 306 to 308;

Phase 3 Subdivide Lot 307 to create Stages 13 & 14 for residential lots.

SITE DIAGRAM:

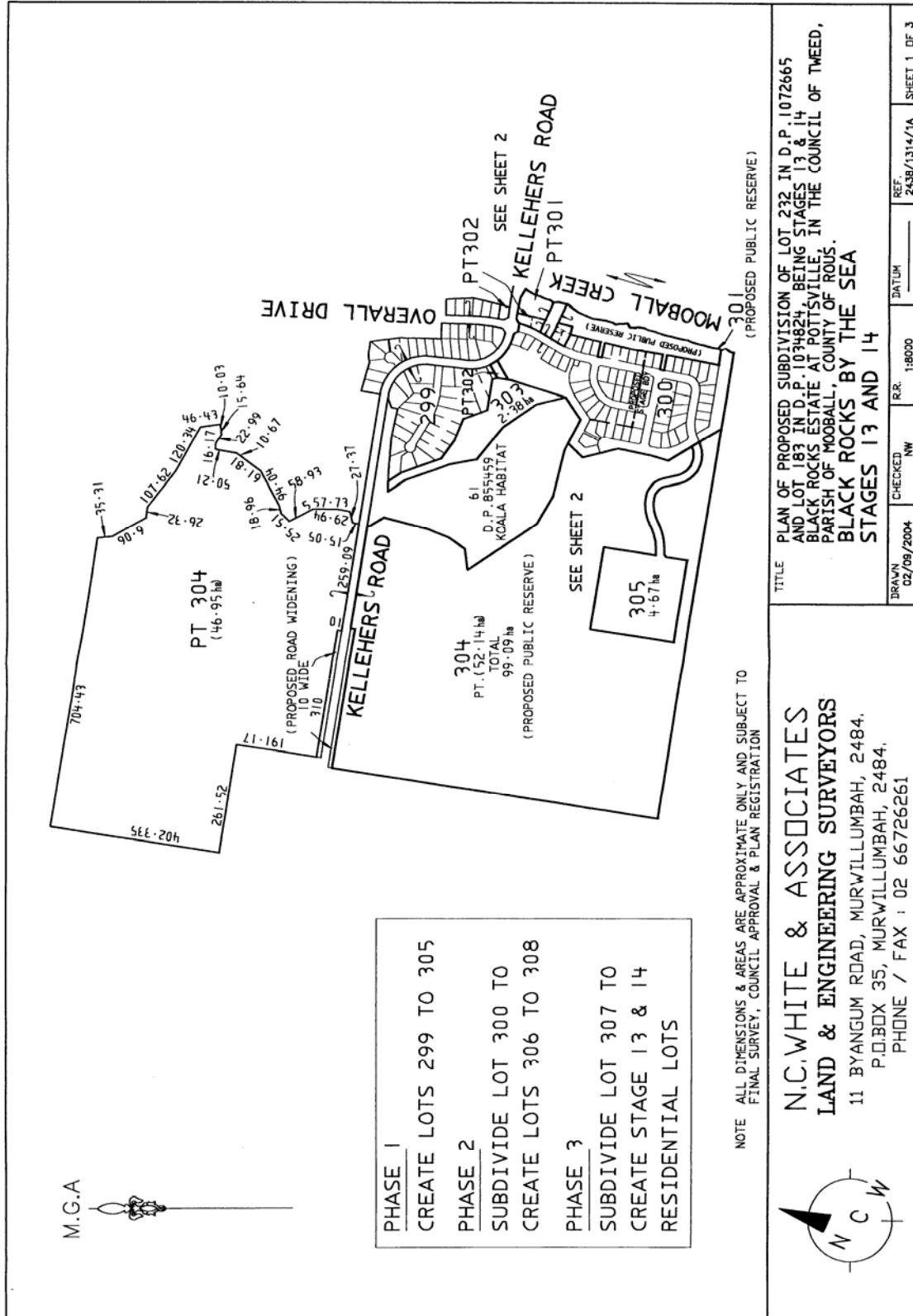


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Tweed Shire Council
**Lot 242 DP 1082837 No. 159 Overall Drive,
 Lot 243 DP 1082837 Overall Drive and
 Lot 183 DP 1034824, Overall Drive Pottsville**
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 TWEED SHIRE COUNCIL
 STRATEGIC PLANNING UNIT
Figure 1
 Scale: 1:10,000 Sheet: 1 of 1

PLANS OF THE DEVELOPMENT:

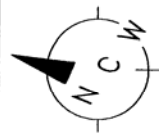


M.G.A

- PHASE 1
CREATE LOTS 299 TO 305
- PHASE 2
SUBDIVIDE LOT 300 TO
CREATE LOTS 306 TO 308
- PHASE 3
SUBDIVIDE LOT 307 TO
CREATE STAGE 13 & 14
RESIDENTIAL LOTS

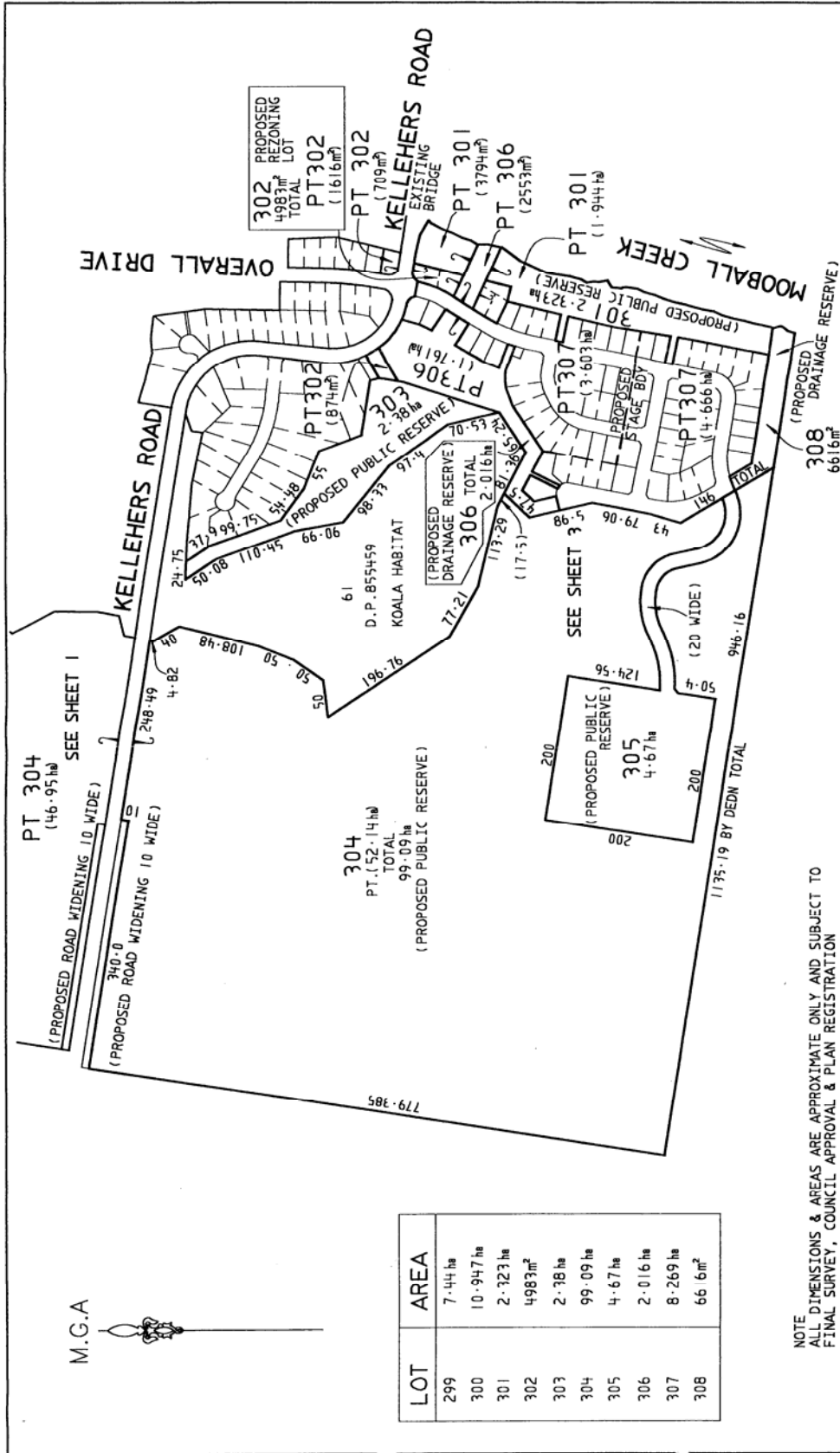
NOTE ALL DIMENSIONS & AREAS ARE APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY, COUNCIL APPROVAL & PLAN REGISTRATION

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

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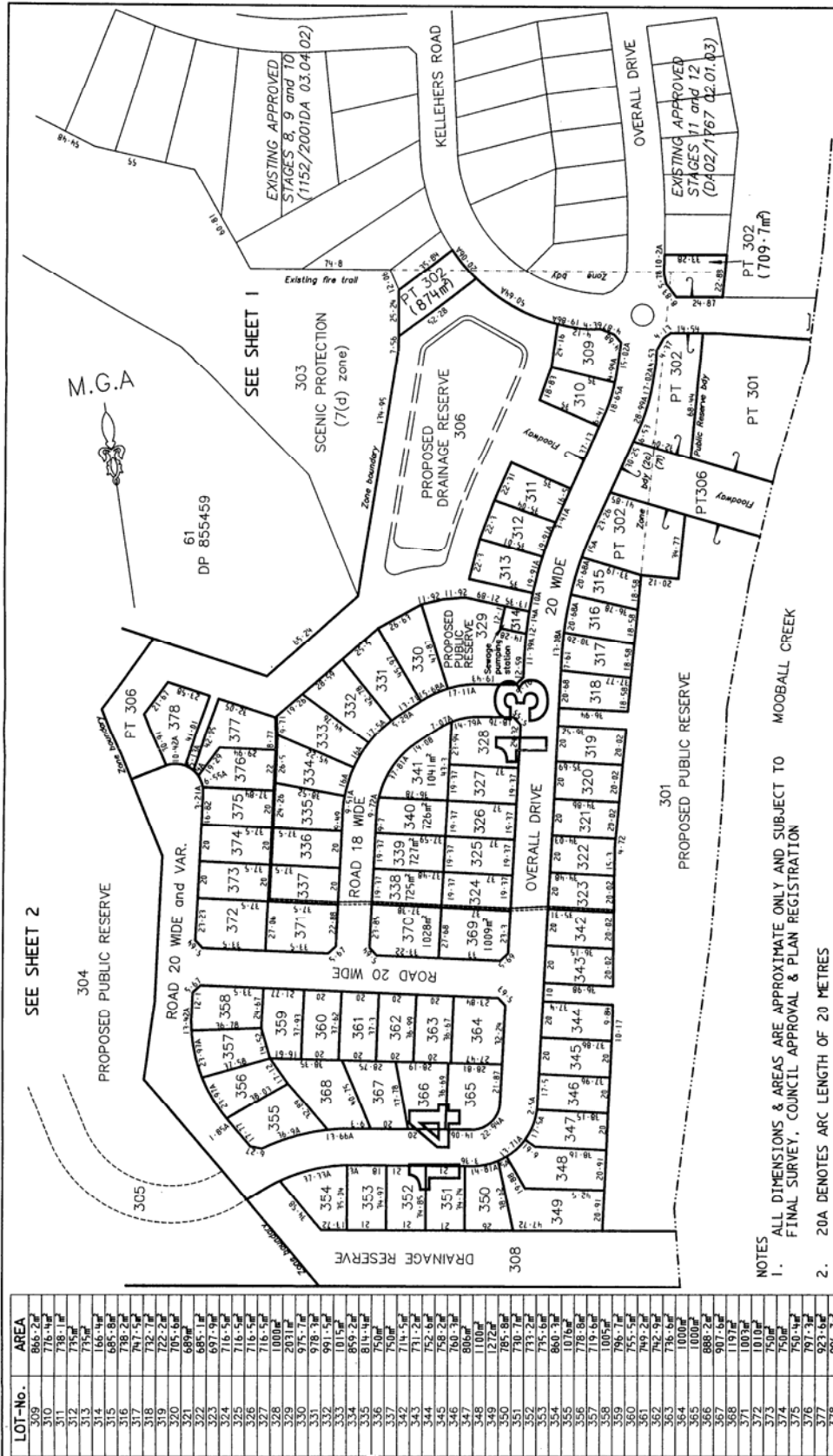


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NOTE
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 FINAL SURVEY, COUNCIL APPROVAL & PLAN REGISTRATION

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

DRAWN 02/09/2004 CHECKED NW R.R. 1:5000 DATUM REF. 2438/1314/1A SHEET 2 OF 3



LOT-NO.	AREA
309	866.2m ²
310	776.4m ²
311	738.1m ²
312	735m ²
313	735m ²
314	166.4m ²
315	685.8m ²
316	789.2m ²
317	732.7m ²
318	732.7m ²
319	722.2m ²
320	705.6m ²
321	689m ²
322	685.1m ²
323	697.9m ²
324	716.5m ²
325	716.5m ²
326	716.5m ²
327	716.5m ²
328	1000m ²
329	931m ²
330	931m ²
331	918.3m ²
332	991.5m ²
333	1015m ²
334	859.2m ²
335	814.4m ²
336	750m ²
337	750m ²
342	714.5m ²
343	731.2m ²
344	752.6m ²
345	758.2m ²
347	800.7m ²
348	1100m ²
349	1272m ²
350	785.8m ²
351	730.7m ²
352	733.2m ²
353	735.6m ²
354	860.3m ²
355	1076m ²
356	778.8m ²
357	119.6m ²
358	100m ²
359	755.5m ²
360	749.2m ²
361	742.9m ²
362	716.6m ²
363	716.6m ²
364	1000m ²
365	1000m ²
366	888.2m ²
367	907.6m ²
368	1197m ²
371	100m ²
372	100m ²
373	150m ²
374	750m ²
375	750.4m ²
376	797.3m ²
377	923.8m ²
378	996.7m ²

NOTES
 1. ALL DIMENSIONS & AREAS ARE APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY, COUNCIL APPROVAL & PLAN REGISTRATION
 2. 20A DENOTES ARC LENGTH OF 20 METRES

TITLE PLAN OF PROPOSED SUBDIVISION OF LOT 232 IN D.P. 1072665 AND LOT 183 IN D.P. 1074824, BEING STAGES 13 & 14 BLACK ROCKS ESTATE AT POTTSVILLE IN THE COUNCIL OF TWEED, PARISH OF MOOBALL, COUNTY OF ROUS.
BLACK ROCKS BY THE SEA STAGES 13 AND 14

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ISSUES FOR CONSIDERATION BY DIPNR

Riparian Buffer along Mooball Creek

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

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

Development - Desired outcome

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

Rehabilitation and Revegetation - Desired outcome

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

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

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

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

The applicant has provided the following justification for the variation:

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

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

That is to say, had Black Rocks Estate Pty Ltd been advised that the 50m foreshore reserve must exclude any batter/cycleway it would not have

agreed to the current zone boundary locations and land transfers. It would have insisted, as part of a negotiated agreement, that the western zone boundary be located at least 15m further to the west to avoid a significant reduction in lot yield.

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

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

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

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

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

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

Geotechnical / Earthworks/Filling

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

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

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

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

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

Existing Title Restrictions – Deed of Agreements

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

A brief of the requirements include the following;

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

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

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

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

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

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

Staging

Staging of the engineering infrastructure must be such that: -

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

Source of Fill Material

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

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

Heavy Haulage

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

Road Network / Horizontal Alignment

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

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

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

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

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

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

Road Vertical Alignment

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

Road Typical Cross Sections

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

Intersections

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

Cul-de-sac arrangements

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

Bus routes / Shelters

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

Footpaths / Cycleway

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

Traffic Generation

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

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

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

Pedestrians

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

Stormwater Drainage

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

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

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

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

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

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

Stormwater Quality Management

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

and sediment control is in accordance with the Tweed Urban Stormwater Management Plan.

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

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

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

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

Services / Utilities

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

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

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

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

Environment / Amenity

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

Fauna & Flora & Koala Assessment

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

Natural Hazards

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

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

Comments from Council's Environmental Health Officer

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

Summary

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

Draft Conditions of Consent

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Sheets 1-3 prepared by NC White and Associates and dated 2/9/2004, except where varied by these conditions. [GEN0010]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0030]

3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.

[GEN0040]

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

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)
 - the approved Traffic Control Plan
 - the relevant maintenance manuals (eg. G.P.T's, water pump station)

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

[GEN0140]

5. All works shall comply with the Acid Sulfate Soil Management Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004.
6. All works shall comply with the Erosion and Sediment Control Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, June 2005.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

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

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

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

[PCC0080]

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

[PCC0190]

10. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
- (i) Permanent stormwater treatment devices are to be in general accordance with Gilbert and Sutherland "Stormwater Management and Assessment Plan for Proposed Residential Development, Final Stages 13 and 14 Black Rocks by the Sea" dated August 2004.

[PCC0230]

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

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

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

[PCC0240]

12. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
 - (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
 - (c) The Erosion and Sediment Control Plan shall be in general accordance with Gilbert and Sutherland "Amended Erosion and Sediment Control Plan for Proposed Residential Development, Final Stages 13 and 14 Black Rocks by the Sea" dated March 2005.

[PCC0320]

13. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- (a) Construction of vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems. All kerb & gutter is to comply with the requirements of Development Design Specification D1.
 - (b) Footpaths on proposed roads No. 2, 3 & 4 are to be provided in accordance with DCP 16 - subdivision manual - Table 4.23.2 and Development Design Specification D1 - Table D1.7.
 - i. The cycleway is to be located on top of the batter adjoining proposed residential allotments.
 - ii. The cycleway is to continue from the Black Rocks estate through to the sports fields.
 - (c) Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and

supporting stormwater calculations shall accompany the engineering design plans.

- (d) Provision of a bus route through the site with designated bus stops and shelters to the satisfaction of the Principle Certifying Authority.
 - (e) Drain infill and linking drain works are to be provided in accordance with the following;
 - i. "Figure 1 Proposed Drainage Network Services 13 & 14" contained in "Appendix A James Warren & Associates 22 February 2005 - Black Rocks by the Sea: Stages 13 & 14 Infilling of Drains" and,
 - ii. Drawing numbers titled Figure 3a, 8a and 8b, prepared by Ardill Payne & Partners contained in the "Supplementary Information to Engineering Infrastructure Report."
 - (f) The entry point to the sports field access road from Overall Drive is to include the placement of kerb and gutter around the 90 degree bend at Chainage 590, and the transition is also to include a standard concrete driveway and lay back to connect with the sports field access road. Speed humps are to be provided every 100 metres along the sports field access road.
 - (g) The fire access trail is to be shown on the construction certificate application and comply with the 'Planning for bushfire protection guidelines 2001.'
14. Staging of the engineering infrastructure must be such that: -
- (a) Each stage is viable in its own right.
 - (b) All external connections (to roads and other service infrastructure) are provided for the current and future stages.
 - (c) For each stage all downstream stormwater and stormwater treatment infrastructure is provided and sized for ultimate development.
15. Prior to the issue of a construction certificate a landscaping plan is to be submitted providing planting and landscaping detail for the park and streetscape in accordance with the provisions of Development Design Specification D14 - Public Landscaping Space.
16. Prior to the issue of a construction certificate application a 'Mooball Creek Riparian Zone Management Plan' must be submitted to and approved by Council. The plan must provide the following;
- (a) 50m minimum reserve width reserved along Mooball Creek for riparian buffer (this can include a footpath and the batter form the filled land).
 - (b) Planting schedule with a planting and maintenance program for the riparian buffer to be revegetated so that as near as possible it will have the species and diversity that existed prior to European settlement.
 - (c) The above mentioned program is to be completed prior to the release the subdivision certificate for any residential allotments.
 - (d) Ensure that establishment, maintenance and replacement of the vegetated area by the proponent is continued for 12 months after Council certifies that the whole riparian zone has been satisfactorily revegetated.
 - (e) Controlled access points to Mooball Creek are to be supplied only at locations of existing gaps through the mangrove fringe.
 - (f) The riparian buffer is to be fenced and managed to limit pedestrian access to controlled points that do not detract from the riparian buffer.

- (g) Pathways / cycleways are limited to the western edge of the riparian buffer.
- (h) The cycleway is to be provided on the top of the batter.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

17. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

18. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

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

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

[PCW0040]

20. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0070]

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

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

[PCW0190]

22. Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

23. Erosion and sediment controls shall be placed prior to the commencement of works and maintained in effective condition until the completion of works.

[PCWNS01]

DURING CONSTRUCTION

24. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

25. No soil, sand, gravel, clay or other material shall be disposed of off the site.

[DUR0030]

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

[DUR0040]

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

[DUR0080]

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

[DUR0150]

29. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.

[DUR0200]

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

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

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

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels

- h. Final inspection - on maintenance
- i. Off maintenance

Sewer Pump Station

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

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

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

[DUR0360]

- 31. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
 - (a) That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
 - (b) That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
 - (c) That the pavement layers have been compacted to RTA specifications.
 - (d) That site fill areas have been compacted to the specified standard.
 - (e) That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - (f) That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR0370]

- 32. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of the Director, Development Services.

[DUR0380]

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

[DUR0400]

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

[DUR0430]

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

[DUR0550]

36. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0560]

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

[DUR0580]

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

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

[DUR0600]

39. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.

[DUR0620]

40. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.

[DUR0630]

41. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.

[DUR0720]

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

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

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

[DUR0730]

43. The water quality control pond shall be fully fenced in accordance with the requirements of AS1926 for children less than five (5) years of age. [DUR0810]
44. (a) The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- (b) An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified.

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

[DUR0820]

45. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties. [DUR0850]
46. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties. [DUR0860]
47. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0870]
48. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]
49. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0900]
50. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0910]

51. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
52. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations. [DUR0930]
53. The burning of builders waste on site by open fire is prohibited. [DUR0940]
54. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development. [DUR0980]
55. All subdivisions are to comply with DCP39 which requires 80% of all lots to achieve a five star rating with the remainder achieving a minimum of three or four stars. [DUR1010]
56. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
57. Chemicals and fuels shall be stored in a flood free area and shall not be permitted to percolate or discharge to any watercourse.
58. Water quality monitoring shall be undertaken in accordance with Part 1.8 of the Acid Sulfate Soil Management Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004 and Part 4.8 of the Erosion and Sediment Control Plan Stages 13 and 14, Black Rocks by the Sea, Gilbert and Sutherland, August 2004.
59. Vegetation (particularly riparian vegetation) shall be lopped, cut or removed only as strictly necessary to construct the development.
60. Water shall not be permitted to discharge or flow from the infiltration basin unless suspended solids are below 50mg/L and pH falls between 6.5 and 8.5
61. All residential allotments are to be filled to a minimum level of 3.0m AHD. The eastern most 12 metres of residential allotments adjoining the Mooball Creek riparian zone may be lower than 3.0m AHD to accommodate fill batters or terraces.

62. Noise from the loading or transport of fill material to and from the development site shall not be permitted to detrimentally impact upon the amenity of any residential premises.

[DURNS01]

USE

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

[USE0200]

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

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

65. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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

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

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

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

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

[PCC0070/PSC0004]

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

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

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

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

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

Heavy Haulage Component

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

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

where:

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

and:

Prod.	projected demand for extractive material to be hauled to the site over life of project in tonnes
Dist.	average haulage distance of product on Shire roads (trip one way)
\\$Unit	the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)
Admin.	Administration component - 5% - see Section 6.5

- b. Street Trees: \$20,196
 S94 Plan No. 6
- c. Shirewide Library Facilities: \$46,784
 S94 Plan No. 11
- d. Bus Shelters: \$1,768
 S94 Plan No. 12
- e. Eviron Cemetery/Crematorium Facilities: \$8,908
 S94 Plan No. 13

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

[PCC0050/PSC0005]

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

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

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

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

[PSC0020]

68. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[PSC0040]

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

[PSC0060]

70. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any

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

[PSC0070]

71. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
- (a) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
 - relevant development consent
 - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
 - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
 - a certificate of compliance from the relevant water supply authority (where applicable)
 - for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
 - Work as Executed Plans for **ALL** works
- (b) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (c) Written evidence from Council that the proposed road/street names have been approved.

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

[PSC0090]

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

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

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

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

[PSC0100]

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

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

[PSC0110]

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

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

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

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

[PSC0140]

75. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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

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

[PSC0150]

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

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

[PSC0160]

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

[PSC0170]

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

[PSC0190]

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

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

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

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

[PSC0210]

80. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: **'DUMP NO RUBBISH, FLOWS INTO CREEK'** or similar wording to the satisfaction of the Director Planning and Environment.

[PSC0220]

81. (a) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
 (b) To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant

shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

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

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

[PSC0230]

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

[PSC0010]

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

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

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

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

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

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

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

[PSCNS01]

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

1. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
2. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
3. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

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

CONCLUSION:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
