

**TWEED SHIRE COUNCIL
MEETING TASK SHEET**

User Instructions

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Action Item - COUNCIL MEETING Tuesday, 17 July 2012

Action is required for Item **10** as per the Council Resolution outlined below.

TITLE: [PR-CM] Tweed Development Control Plan 2008 - Section B15
Seabreeze Estate Pottsville, Amendment No. 1

**Cr D Holdom
Cr K Milne**

PROPOSED that:

1. This item be deferred to the August meeting.
2. The General Manager organises a follow up workshop between the Executive Management Team, Councillors and Department of Education and Training representatives regarding an update on possible school sites in and around the Pottsville locality.

AMENDMENT

**Cr W Polglase
Cr P Youngblutt**

RESOLVED

1. The preparation of an amendment to Section B15 – Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008 to remove the identification of the school site within Seabreeze Estate be endorsed;
2. The amended Tweed Development Control Plan Section B15 – Seabreeze Estate, Pottsville be publicly exhibited for a minimum period of 30 days, in accordance with section 74E of the *Environmental Planning Assessment Act 1979* be endorsed; and

3. Following public exhibition of Draft Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, a further report is submitted to Council on the public consultation.
4. Council convenes a community meeting in Pottsville during the exhibition period.

The Amendment was **Carried**

***FOR VOTE - Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout
AGAINST VOTE - Cr D Holdom, Cr K Milne, Cr B Longland***

The Amendment on becoming the Motion was **Carried** - (Minute No xxx refers)

***FOR VOTE - Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr B Longland
AGAINST VOTE - Cr D Holdom, Cr K Milne***

Agenda Report

TITLE: [PR-CM] Tweed Development Control Plan 2008 - Section B15
Seabreeze Estate Pottsville, Amendment No. 1

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/B15 Pt1

**Civic Leadership**

SUMMARY OF REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (TLEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. A Development Control Plan (DCP) is required prior to the development of the subject site to address the following matters:

- Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
- Analyse the existing DCP designation for a potential future school; and
- Reinforce the need for a 50m riparian buffer to Cudgera Creek, as per the Tweed Coast Estuaries Management Plan.

The wastewater and riparian buffer matters are straight forward and present no major issues for the drafting and implementation of the DCP.

In terms of the existing DCP designation for a future school site, the NSW Department of Education and Training (DET) have recently provided verbal advice that the site will not be required, and have undertaken to provide a written confirmation of this advice.

Concurrently, the current owners of the site Metricon have advised Council that, given the DET's lack of interest in purchasing the site, they are urgently seeking for Council to proceed with the amended DCP process, to provide them greater certainty and to advance a development application for the residential subdivision of the designated school site.

Given the time elapsed since the original school concept, this is considered to be a reasonable request.

It is therefore recommended that Council endorse the preparation and public exhibition of an amendment to Section B15 - Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008, including the removal of the identification of the current school site within the northern, undeveloped portion of the Seabreeze Estate.

RECOMMENDATION:

That:

1. **The preparation of an amendment to Section B15 – Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008 to remove the identification of the school site within Seabreeze Estate be endorsed;**
2. **The amended Tweed Development Control Plan Section B15 – Seabreeze Estate, Pottsville be publicly exhibited for a minimum period of 30 days, in accordance with section 74E of the *Environmental Planning Assessment Act 1979* be endorsed; and**
3. **Following public exhibition of Draft Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, a further report is submitted to Council on the public consultation.**

REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (TLEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. The subject land is identified in Figure 1 below.

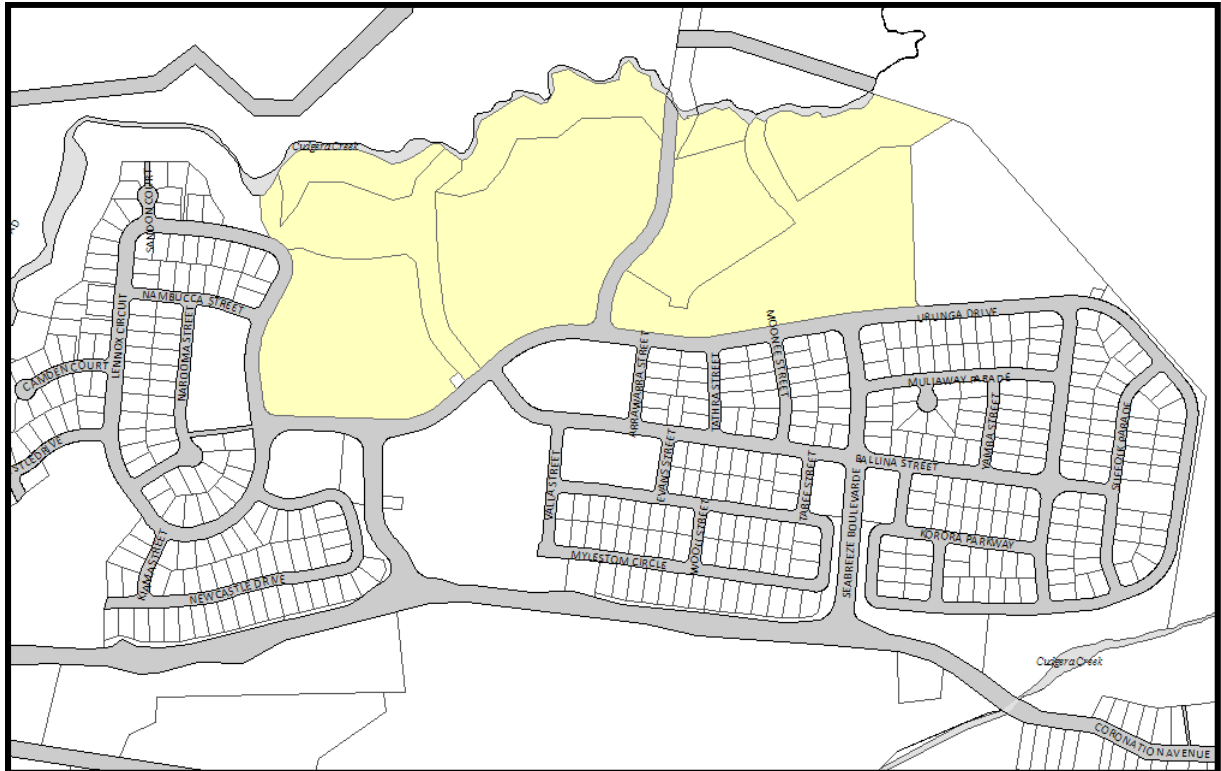


Figure 1 – LEP Amendment Area

As part of the LEP amendment, Clause 53E, requires preparation of a Development Control Plan (DCP) to address a range of matters, prior to the development of the subject land. An amendment to the current DCP Section B15 – Seabreeze Estate, satisfies this clause and would enable the DCP to be amended to address the following outstanding matters:

1. Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
2. Analyse the existing DCP designation for a potential future school; and
3. Reinforce the need for a 50m riparian buffer to Cudgera Creek, as per the Tweed Coast Estuaries Management Plan

The landowner has prepared and submitted a DCP amendment request, which is currently being reviewed by Council staff. The DCP amendment will adequately address points 1 and 3 above and seeks the removal of the identified school site to enable other residential land uses of this site. The requested DCP amendment has not yet been comprehensively drafted and will occur upon receipt of a Council resolution on this matter.

History

Prior to consolidation of all Tweed Development Control Plans into one Development Control Plan in 2008, the Seabreeze Estate Development Control Plan was titled Development Control Plan No. 38 – Seabreeze Estate Pottsville, which came into force on 1 January 2000. Within this document an indicative Structure Plan (titled Map 7 and displayed in Figure 2) identified a 'Potential School Site'. This DCP carried over into the consolidated DCP as DCP Section B15 – Seabreeze Estate.

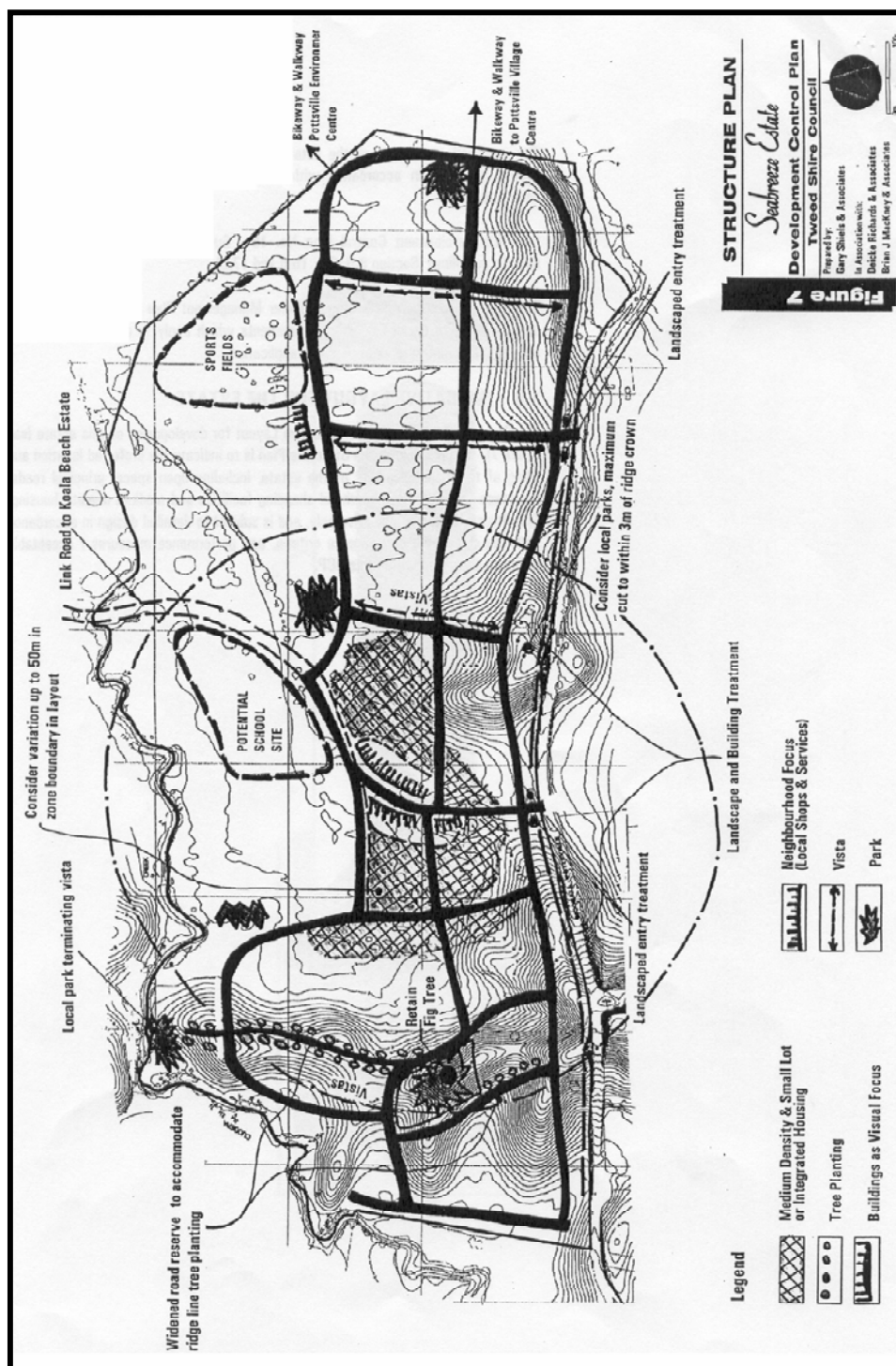


Figure 2 – DCP 38 – Indicative Structure Plan

The subdivision and associated works was approved by Tweed Shire Council and development consent issued on 7 September 2000 (Development Application K99/1837). Within the approved masterplan, an area of 6 hectares was identified for a 'Possible School Site'. The possible school site was located in keeping with the indicative provisions of DCP 38.

In June 2008, Council endorsed a Whole of Shire Cultural and Community Facilities Plan (CFP). The CFP made a number of recommendations, of which the following are relevant to the subject site and the wider Pottsville locality:

- The use of a 40% threshold in the provision of community facilities in the Tweed local government area (LGA) in order to ensure that the highest level of social cohesion and development of social capital are achieved in all localities across the region, i.e. Whilst youth centres should be provided at a rate of 1 per 20,000

people, once a population of 8,000 is achieved, a youth facility should be provided.

- An estimated 3 year lead time for the development of primary schools and 5 years for high school provision.
- An additional high school is required within the coastal catchment.
- 2 additional preschools are required within the coastal catchment.

Section B21 - Pottsville Locality Based Development Code (the Code) was adopted in April 2010. The Code sought to embody the CFP's findings and after considering population demographics, growth rates and the opportunities for further residential development within the locality concluded there would be demand for additional primary school and establishment of a local high school within in Pottsville. The Code undertook a desktop analysis of a number of potential sites, including the subject site and identified that:

- The site, identified in DCP Section B15 – Seabreeze Estate, is logically placed; neighbouring playing fields in both Seabreeze Estate and Koala Beach as well as the Seabreeze-Koala Beach link road, allowing an effective cross utilisation of existing infrastructure;
- The identified site is still largely in a 'greenfield' state, allowing appropriate opportunities to achieve a high quality, use specific outcome; and
- There is also opportunity for the development of a child care centre, integrated with a 'neighbourhood shop' site adjoining, to consolidate community uses.

The Code ultimately concluded identification of a school site within Seabreeze Estate or within the Dunloe Park Release Area should be explored as the priority and suitable locations.

The Local Environmental Study undertaken to facilitate the LEP amendment (completed in 2010) indicated that the land could cater for a school.

School Site Demand

Discussions with Department of Education and Training (DET) staff over the past 12 months have identified that there is currently insufficient demand to warrant a High School within the Pottsville locality, however demand may be present for a Kindergarten and/or Primary School. Consistent with these findings, DET formally requested the landowner identify a 3 hectare school site in any amendment to the DCP.

With regards to the actual acquisition process, DET provided the landowner with the following information:

“The Department is not in the position to purchase the site this financial year, and possibly the following as funding allocations have been locked in.

The provision of a new School in Pottsville is still contingent on enrolment projections at the current school at Pottsville being achieved and the Dunloe Park Development progressing.

The site acquisition will generally occur in the financial year prior to the planning of the school. Developers can gift the land to the Department as part of their State Infrastructure Contribution and claim the credit to hasten the acquisition of land by the Department.”

In light of the above advice, the landowner finalised the DCP amendment request, without identifying a designated school site. Within the submitted DCP amendment request, the applicant specifically states:

“...please note that we have not had final advice from the Department of Education in relation to acquisition of a proposed school site in Stage 15 and therefore we have retained the residential designation. Exhibition of the amended draft Development Control Plan will provide the Department with an opportunity to finally determine if they want a site and if so, a commitment to acquire the site promptly.”

A copy of the requested DCP amendment has referred to DET officers for formal comment; however comments are not anticipated to be received until August. Informal discussions with DET staff indicate that that local demographic trends, enrolment projections and timing of future urban release areas within Pottsville (specifically Dunloe Park) continue to be monitored. DET is also monitoring the progress of a separate Catholic primary school application currently before Council in Charles Street, Pottsville. This proposal is to cater for 420 students from Kindergarten to Grade 6.

Based on current trends and potential school facilities in Pottsville village centre the demand for an additional state primary school in Pottsville is likely to be delayed for the foreseeable future.

Whilst a potential school has long been earmarked for the subject site, it does not appear that the demand for such infrastructure will arise in the immediate to short-term. The release of Dunloe Park is likely to be the threshold for DET in requiring any additional state school, as opposed to residual growth remaining in the undeveloped urban areas within the Pottsville locality. The Dunloe Park urban release area is not anticipated to provide actual population growth within the next five years. This is the basis of the DET not prioritising the need for acquisition of land for a primary school site at this time and represents a significant time delay to the landowners of the subject site should a 3 hectare parcel be retained as a possible school site. This should nonetheless be weighed against the proponent's commitment to providing a school site in the original masterplan for the Seabreeze Estate upon which development consent was granted.

The removal of the school site designation does not preclude a school being developed on the subject site in a legal sense as this is a permissible landuse under the existing 2(a) Low Density Residential zone. However, in a practical sense this is likely to be the net result as the landowner has expressed an intention to erect 141 single dwelling lots and 9 multi-dwelling housing' lots resulting in 18 dwellings in its place

In light of the above and to provide a fair opportunity for the proponent to test their proposed amendment it is recommended that the Draft DCP amendment be prepared and publicly exhibited as this will give DET and the wider public an opportunity to provide formal comment on the amendment, prior to Council having to make a final decision on whether the amendment is appropriate in the circumstances.

From a strategic planning perspective, the land use shift from a school to residential uses does reduce the potential for the integration of vibrant community uses within the Seabreeze Estate, which the masterplan and subsequent DCP foreshadowed. Whilst the Seabreeze Estate is still to develop its 'Town Centre', which is to include retailing activities appropriate to the day-to-day needs of the precinct's residents, the remainder of the estate has been largely developed as intended for residential and open space purposes, as well as an aged care development.

OPTIONS:

1. Act on the proponent's request to amend the DCP by removing the school site designation and thereby permit additional residential landuses, or
2. Reject the proponent's request to amend the DCP thereby retaining the school site designation, or

The officers recommend Option 1.

CONCLUSION:

The DCP amendment seeks to remove the identification of a potential school site to enable the development of that land for residential purposes.

The provision of an additional school for the Pottsville locality has long been discussed amongst the community, developers, Council and education providers. Since 2000, the subject land within Seabreeze Estate has been identified for a potential school site. When considering the previous land size allocation and surrounding infrastructure provision, the most likely use was for a high school. However, more recent population and demographic trends, as well as other factors in the way educational needs can be accommodated have led DET to conclude that a high school is not required for the foreseeable future and subsequently indicated a preference to retain a reduced footprint for a primary school. This is now in doubt with DET most recently indicating that an alternative site in the future may be more appropriate to meet their and the community's needs.

DET have not currently prioritised acquisition of land within the Pottsville locality for a school site and have indicated that the Seabreeze site is not required. Written confirmation from the DET is yet to be received.

Given the uncertainty and timeframes involved for the required population growth thresholds it is considered appropriate to prepare and publicly exhibit an amendment to the Tweed Development Control Plan 2008 Section B15 – Seabreeze Estate, Pottsville. This will involve the removal of the school site designation for public exhibition purposes to allow for community comment on the proponent's request.

It is concluded that the best means for testing the appropriateness of the proposal, and to allow time for DET to consider and formally respond on the issue, is to proceed with a Draft DCP to public exhibition.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.1 Sustainable management of the population in accordance with strategic decisions of previous councils, the NSW and Commonwealth Governments and the Far North Coast Regional Strategy, including provision of amenities, infrastructure and services

- 1.5.1.1 Preferred population or environmental carrying capacity of the Tweed
- 1.5.1.1.1 Council planning documents are prepared in accordance with the State Plan and North Coast Regional Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
