

Memo

Thursday 11 April 2013

To: DEO
From: Legal Services Officer
Subject: Lot 6 DP 872039 - Hastings Road, Cabarita
Reference: DA2380/575

Patrick,

Lot 6 DP 872039 is Council land, classified as community land which has a specific Plan of Management for Car Park, adopted by Council on 3 May 2000, a copy is attached.

The core objective of the Plan is *"to provide public off street car parking adjacent to the commercial area of the village of Bogangar/Cabarita Beach for the convenience of the local community and general public"*.

Section 35 of the Local Government Act 1993 provides that community land is required to be used and managed in accordance with:

- The plan of management applying to the land;
- Any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land;
- This Division

Firstly, the Plan of Management expressly states that the land is to be used for car parking purposes.

Secondly, the land is currently zoned 5(a) Special Uses Car Parking, and has been identified as B2 Local Centre in the draft LEP 2012. The current zoning precludes the use to expand to community purposes, but the draft LEP could be construed to extend to such purposes.

The specific Division referred to in the third item above, relates to the use of community land which includes the capacity to lease or licence community land. Section 46 of the LGA allows the leasing or licensing of community land only if the Plan of Management expressly allows it.

The Plan of Management for the subject parcel does not make any provisions for the leasing or licensing of the land. So, notwithstanding that the draft LEP identifying the land as B2 Local Centre, which could be construed to allow community services, such use could only occur if the land was leased or licensed for that purpose.

On this basis Council is constrained from using the parcel for any other purpose than for the provision of car parking.

Council has resolved to sell the other parcel subject of the Plan of Management, Lot 3 DP 42350, to the north to provide funds towards the construction of a car park on Lot 6.

Nela Turnbull

7963

TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services

10. ORIGIN: Planning & Design Unit

FILE REF: Car Parks - Other Places, Plan of Management

REPORT TITLE:

Hastings Road Car Park Draft Plan of Management

SUMMARY OF REPORT:

Council has previously considered a report regarding the use of Lot 6 DP 872039 and Lot 3 DP 842350 in Hastings Road, Bogangar for the use of public car park. A draft Plan of Management in accordance with the Local Government Act requirements was prepared and exhibited for public comment.

RECOMMENDATION:

That:-

1. The draft Plan of Management for the use of Lot 6 DP 872039, Lot 3 DP 842350 and Lot 2 DP 831562 in Hastings Road, Bogangar as public car park be formally adopted.
2. Lot 6 DP 872039, Lot 3 DP 842350 and Lot 2 DP 831562 be classified as "Community Land" and categorised as "general community use".
3. The proposed construction of public car park on Lot 6 be deferred indefinitely until other alternatives for public car parking in the Bogangar/Cabarita Beach CBD have been investigated and that the current allocation of \$58,000 from the car parking developer contributions be retained for expenditure in Bogangar/Cabarita Beach.

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TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services

REPORT:

Council has previously considered a report regarding the use of Lot 6 DP 872039 and Lot 3 DP 842350 in Hastings Road, Bogangar for the use of public car park. At its meeting on the 18 November 1998 Council resolved that:-

"The proposed use of Lot 6 DP 872039 and Lot 3 DP 842350 for public car park be advertised in accordance with the Statutory requirements to enable Council to amend the current Plan of Management."

Accordingly a draft Plan of Management in accordance with the Local Government Act requirements was prepared and exhibited for public comment. At the close of the public exhibition period no written submissions had been received. In accordance with Local Government Act requirements a public meeting was advertised and held on Tuesday 14 March 2000 at Cabarita Bowls Club to further discuss the draft Plan of Management. That meeting was held in two parts, the first part dealing with the draft Plan of Management and the second part of the meeting discussing the proposed construction of a public car park at Lot 6 DP 872039. The meeting unanimously supported the draft Plan of Management and a report from the chairman of the meeting is reproduced as follows:-

"Chairman's Report

on

HASTINGS ROAD CAR PARK

DRAFT PLAN OF MANAGEMENT

PUBLIC MEETING

A Public Meeting was held on Tuesday 14 March 2000 at Cabarita Bowls Club to discuss two issues being:-

Draft Plan of Management for Lot 6 DP872039, Lot 2 DP 831562 and Lot 3 DP 842350, Bogangar for use as a Public Car Park.

Proposed construction of Public Car Park on Lot 6 DP 872039

The meeting was attended by Councillor George Davidson; Director Engineering Services, Mike Rayner; Traffic Engineer, Paul Morgan and ten members of the general community. The meeting was chaired by Mr Stan Dawson.

The first item discussed was the Draft Plan of Management for the Public Car Parks. Copies of the Draft Plan of Management were tabled. A brief explanation of why a Plan of Management was required and the contents of the Plan was presented to the meeting.

After a short discussion/question time a resolution was unanimously adopted after being moved by Mr David Colquoun:-

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Reports from Director Engineering Services

"That the Draft Plan of Management be adopted for Lot 6 DP 872039, Lot 2 DP 831562 and Lot 3 DP843350 categorising the land as Community Use and classified as General Community Use".

A copy of the Draft Plan is attached to this report.

The second issue discussed was the proposed construction of a 57 space public car park on Lot 6 at an estimated cost of \$58,000. The meeting was informed that the funds were collected as developer contributions for commercial area car parking to cover shortfalls on individual developments.

Mr David Colquoun opposed this project because of the minimal usage of existing undercover car parking in the adjacent developments and made a presentation proposing the upgrading of the Public Car Park between Palm Avenue and Pandanus Parade where it was estimated up to 32 extra spaces could be provided.

The meeting endorsed this proposal and recommended that Council staff investigate this proposal and identify any other opportunities in the CBD area.

The meeting also requested that Council consider a "1 hour" parking limit covering on road parking in the Coast Road.

The meeting was advised that a Plan of Management for Parking and Parking Control would be developed and pursued.

It was requested that the construction of the public car park on Lot 6 be deferred indefinitely and that the above issues be investigated and that the \$58,000.00 for construction be preserved for car parking in the Bogangar/Cabarita Beach CBD.

Stan Dawson
CHAIRMAN"

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TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services

PLAN OF MANAGEMENT
for
LOT 6 DP 872039, LOT 2 DP 831562 and LOT 3 DP 842350 BOGANGAR
FOR PUBLIC CAR PARK

TWEED LOCAL ENVIRONMENTAL PLAN BACKGROUND

Lot 6 DP 872039 has not been categorised under the Local Government Act, 1993, Lot 3 DP 42350 and Lot 2 DP 831562 have been incorrectly categorised under the Act, as "Modified Parks" and as such requires reclassification.

The above land has always been intended to be utilised as a public car park, as is evident in the exhibited Tweed Local Environmental Plan 1987 which zoned the land as '5(a) Special Uses' - 'Public Car Park' and is carried over into the Draft Tweed Local Environmental Plan 1998. These lots are shown in Appendix A.

CURRENT DESCRIPTION OF THE LAND

All three lots are vacant with no improvements or buildings on them. There is no vegetation other than partial grass cover.

The lots are currently unused except for the occasional use as carpark by members of the community from time to time.

AIM

The aim of the Plan of Management is to provide a public car park on for the land being Lot 6 DP 872039, Lot 2 DP 831562 and Lot 3 DP . (See Appendix B).

CATEGORY OF THE LAND

The Local Government Act, 1993 requires all Council Community Land to be categorised and a Plan of Management in accordance with S36 of the Act to be prepared. The land being Lot 6 DP 872039, Lot 2 DP 831562 and Lot 3 DP 842350, Bogangar are to be categorised as "General Community Use".

CORE OBJECTIVES

The core objective of the Plan is to provide public off street car parking adjacent to the commercial area of the village of Bogangar/Cabarita Beach for the convenience of the local community and general public. The land is currently zoned Special Uses - public car park under the Tweed Local Environmental Plan, 1987 and the Draft Tweed Local Environmental Plan, 1998.

PERFORMANCE TARGETS

The following performance targets are proposed:

1. To complete construction of the public car park on Lot 6 DP 872039 before January, 2006.

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2. To complete construction of the public car park on Lot 3 DP 842350 before January, 20012.
3. To progressively acquire land from between the two car parks (Lot 3 DP 842350, Lot 6 DP 872039) to enable them to be linked together via an access laneway. This is an ongoing target and is determined by adjacent development.

PERFORMANCE MEASURES

The following Performance Measures will be used to determine attainment of the Plan Objectives:

Performance Target	Performance Measure
1. To complete construction of the public car park on Lot 6 DP 872039 before January, 2000.	Construction completed by January, 2000.
2. To complete construction of the public car park on Lot 3 DP 842350 before January, 2006.	Construction completed by January, 2006.
3. To progressively acquire land from between the two car parks (Lot 6 DP 872039, Lot 3 DP 842350) to enable them to be linked together via an access laneway. This is an ongoing target and is determined by adjacent development.	Ongoing.

FUNDING

The Performance Targets will be funded from Developer Contributions paid to the Tweed Coast Car Parking Fund. Payments to the fund are made when developers cannot meet the parking obligations on site and is subject to Council's agreement.

Development applications will need to be lodged and approved prior to any construction taking place.

DR JOHN GRIFFIN
General Manager
Tweed Shire Council

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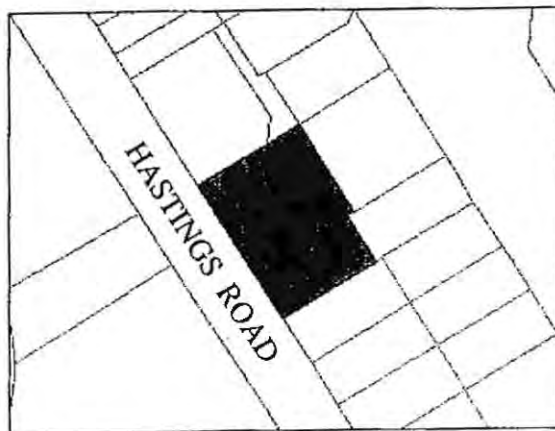
TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services



TWEED SHIRE COUNCIL

PROPERTY REPORT



Lot 6 on DP 872039

Report Date:	10 Sep 1999
Property Located at:	Hastings Road, Bogangar
Owner(s):	Tweed Council
Owner(s) Address:	Side) Coast Road (West BOGANGAR NSW 2488
Assessment Number:	Property System information unavailable
Town Plan Zone:	Property System information unavailable
Plan Area (sq.m.):	1799.562
Perimeter (m):	173.720
Land Value (\$):	Property System information unavailable
GIS Tag:	T40/6//872039

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L. F. Beck

CHAIRMAN

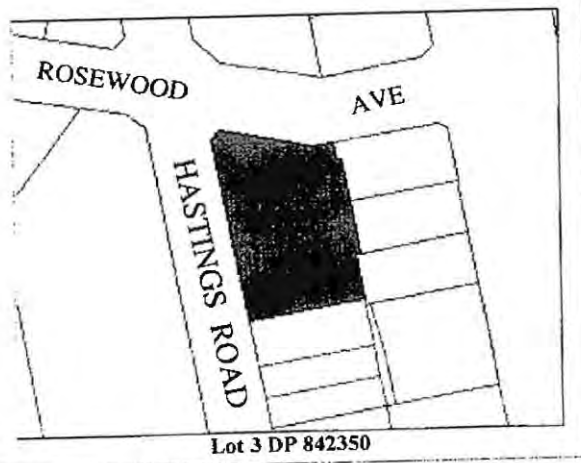
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Reports from Director Engineering Services



TWEED SHIRE COUNCIL

PROPERTY REPORT



Report Date:	10 Sep 1999
Property Located at:	104 Rosewood Avenue, Bogangar
Owner(s):	Tweed Shire Council
Owner(s) Address:	104 Rosewood Avenue BOGANGAR NSW 2488
Assessment Number:	Property System information unavailable
Town Plan Zone:	Property System information unavailable
Plan Area (sq.m.):	2168.468
Perimeter (m):	192.878
Land Value (\$):	Property System information unavailable
GIS Tag:	T40/3//842350

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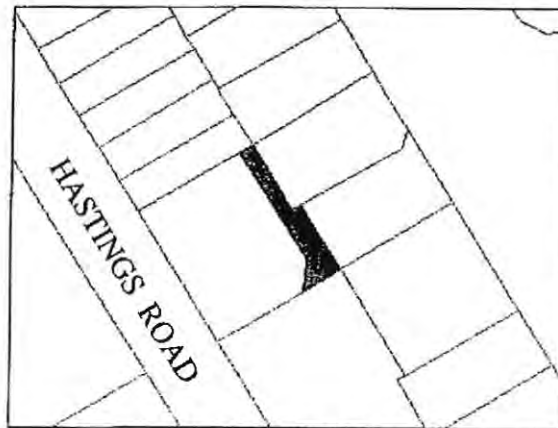
TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services



TWEED SHIRE COUNCIL

PROPERTY REPORT



Lot 2 on DP 831562

Report Date:	10 Sep 1999
Property Located at:	Coast Road (West Side), Bogangar
Owner(s):	Tweed Council
Owner(s) Address:	Side) Coast Road (West BOGANGAR NSW 2488
Assessment Number:	Property System information unavailable
Town Plan Zone:	DISTRICT CENTRE 3(b)
Plan Area (sq.m.):	220.327
Perimeter (m):	100.253
Land Value (\$):	Property System information unavailable
GIS Tag:	T13/2//831562

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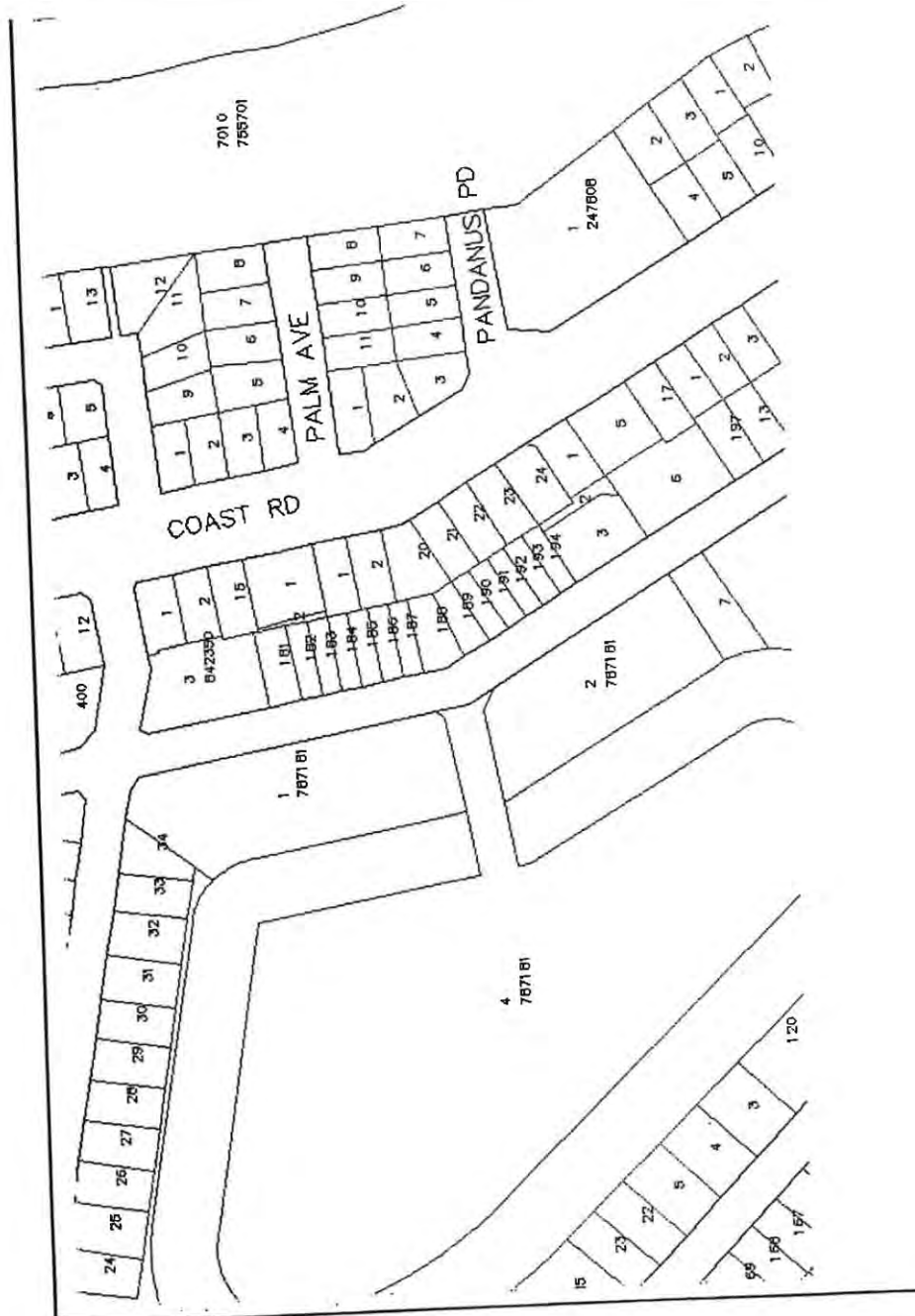
C. F. Beck

CHAIRMAN

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TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

Reports from Director Engineering Services



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TWEED SHIRE COUNCIL MEETING HELD WEDNESDAY 3 MAY 2000

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Part two of the public meeting discussed the proposed construction of public car park on Lot 6 however the general feeling of the meeting was that it is too early to construct this car park given the fact that substantial basement car parking already exists under several existing developments which is hardly ever used due to the perceived difficulty in accessing it. The meeting favoured increasing public car parking in the public car park off Pandanus Parade and also endorsed a proposal that Council staff investigate the proposal and identify any other opportunities to increase public car parking in the commercial area of Bogangar/Cabarita Beach. The meeting also requested that Council consider a one hour parking limit on the Coast Road in the commercial area. This request would need to be forwarded to the Local Traffic Committee however it is recommended that this not be done until a review of the car parking in the commercial area is completed so that the extend of the parking restrictions can be determined.

L. F. Beck CHAIRMAN