



NOTICE OF ORDINARY MEETING

Notice is hereby given that a meeting of

GREAT LAKES COUNCIL

Will be held at the Council Chambers, Breese Parade, Forster on

13 OCTOBER 2009 AT 9.30AM

A Citizenship Ceremony will be conducted from 1.45pm for Mr John Murrell followed by a Farewell Presentation for Mrs Joy Rooke after 16 years with Council.

The order of the business will be as detailed below (subject to variation by Council)

1. Acknowledgement of Country
2. Opening Prayer
3. Apologies
4. Declarations of Pecuniary & Non-Pecuniary Conflicts of Interest
5. Confirmation of the Minutes from previously held meetings:
Ordinary Meeting *22 September 2009*
6. Consideration of Officers' Reports:
General Manager
Director Planning & Environmental Services
Director Engineering Services
Director Corporate & Community Services
7. Meet the Public Session (2.00pm)
8. Urgent Business
9. Close of Meeting

A handwritten signature in black ink, appearing to read "Keith O'Leary", is written over a white background.

Keith O'Leary
GENERAL MANAGER

GREAT LAKES COUNCIL

COUNCIL STRATEGIC DIRECTION

Council has adopted a Vision, Mission and five Strategic Objectives to guide the overall direction of Great Lakes Council.

VISION

Great Lakes.....

A leader in the provision of infrastructure and services which sustain and enhance the natural environment and achieve a quality lifestyle for residents and visitors.

MISSION

Providing governance which is:

- *Effective*
- *Efficient*
- *Socially Just*
- *Transparent*
- *Visionary*

STRATEGIC OBJECTIVES

1. *Natural and Built Environment*

To plan for future growth while ensuring a healthy well managed natural environment.

2. *Community and Social Wellbeing*

To provide opportunities for recreation and culture for all and to foster a safe and caring community.

3. *Economic Development*

To plan for sustainable economic and tourism development.

4. *Infrastructure Management*

To plan and manage infrastructure and assets to meet community needs.

5. *Corporate Governance*

To ensure Council management and practices provide effective, efficient, socially just, transparent and visionary governance. To create long term financial viability while responding to the needs and demands of the community.

The following is extracted from Council's adopted Code of Conduct. The Code applies to Councillors, members of staff and delegates of Council and also includes contractors and volunteers

GREAT LAKES COUNCIL

CODE OF CONDUCT PRINCIPLES AND ETHICAL DECISION MAKING

- **Integrity** – You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.
- **Leadership** – You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of Council. *This means promoting public duty to others in the council and outside, by your own ethical behaviour.*
- **Selflessness** – You have a duty to make decisions solely in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. *This means making decisions because they benefit the public, not because they benefit the decision maker.*
- **Objectivity** – You must make decisions solely on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of council's resources; considering only relevant matters.*
- **Accountability** – You are accountable to the public for your decisions and actions and must consider issues on their merits, taking into account the views of others. *This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*
- **Openness** – You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*
- **Honesty** – You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *This means obeying the law; following the letter and spirit of policies and procedures; observing the code of conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.*
- **Respect** – You must treat others with respect at all times. This means not using derogatory terms toward others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

Ethical Decision Making

Consider the following points when assessing a potential action or decision.

- Is the decision or conduct legal?
- Is it consistent with Council policy, Council's objectives and Council's Code of Conduct?
- What will the outcome be for yourself, your colleagues, Council and other interested parties?
- Does it raise a conflict of interest?
- Do you stand to privately gain or lose at the public expense?
- Can the decision be justified in terms of the public interest?
- Would the decision withstand public scrutiny?

TABLE OF CONTENTS

CONSIDERATION OF OFFICERS' REPORTS: 1

GENERAL MANAGER 1

- 1 GM - Minutes of Tourism Committee Meeting held 28 September 2009..... 1

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES 3

- 2 PES - Construction of a hall for a place of worship 3
- 3 PES - Pacific Palms Draft Local Environmental Plan Request by Owner Lot 10 DP 633645, Boomerang Drive, Boomerang Beach 14
- 4 PES - Cape Hawke Community Hospital 17
- 5 PES - Assessment of Submissions received from the Exhibition of the North Hawks Nest Draft LEP 19
- 6 PES - Retail Adult Store - Kent Street, Tuncurry 27
- 7 PES - List of Matters before the Land & Environment Court - October 2009 38
- 8 PES - Consents Issued Under Delegated Authority - September 2009..... 39
- 9 PES - Penalty Infringement Notices Issued - September 2009 40
- 10 PES - Minutes of the Port Stephens Estuary Management Committee - 26 August 2009 42
- 11 PES - Minutes of the Wallis and Smiths Coast and Estuary Management Committee - 5 August 2009 43

DIRECTOR ENGINEERING SERVICES..... 44

- 12 ES - Dedication of Public Road - The Lakes Way and Sweetpea Road, Forster 44
- 13 ES - Cattle Grid Construction - Crown Road Reserve off Crawford River Road, Bulahdelah..... 46

DIRECTOR CORPORATE & COMMUNITY SERVICES 48

- 14 CCS - Disclosure of Interest Returns - Councillors & Designated Persons 48
- 15 CCS - Promoting Better Practice Review Action Plan Update 50
- 16 CCS - Criminal Record Checks 52
- 17 CCS - Investment Report September 2009..... 54
- 18 CCS - Minutes of Commercial Enterprises Committee Meeting held 28 September 2009..... 55
- 19 CCS - Aboriginal Liaison Committee 57
- 20 CCS - Great Lakes Safe Communities/Crime Prevention Taskforce..... 59
- 21 CCS - Access Committee Report 61
- 22 CCS - List of Outstanding Reports 63

CONSIDERATION OF OFFICERS' REPORTS:

GENERAL MANAGER

1 GM - Minutes of Tourism Committee Meeting held 28 September 2009

Index: Tourism Committee
Author: Manager, Tourism & Marketing - Richard Old
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

The Minutes of the Tourism Committee meeting held on 28 September 2009 are submitted for adoption.

SUMMARY OF RECOMMENDATION:

1. That the minutes of the Tourism Committee meeting held on 28 September 2009 be noted.
2. That the recommendations from the Tourism Committee meeting held on 28 September 2009 be adopted:

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

A: Minutes of the Tourism Committee meeting held on 28 September 2009.

LIST OF ATTACHMENTS:

Nil.

REPORT:

The Minutes of the Tourism Committee meeting held on 28 September 2009 are attached as Annexure 'A' and are submitted for adoption.

RECOMMENDATION:

1. That the minutes of the Tourism Committee meeting held on 28 September 2009 be noted.
2. That the following recommendations from the Tourism Committee meeting held on 28 September 2009 be adopted:

009 **RECOMMENDED** that Council send congratulations to Club Forster and Sugarloaf Point Lighthouse at Seal Rocks for their success in the recent Mid North Coast Tourism Awards.

011 **RECOMMENDED** that Tourism Committee meetings meet monthly; one a formal Tourism Meeting, the alternate month being an Industry Development Group meeting.

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

2 PES - Construction of a hall for a place of worship

Index: DA-706/2008 and PK 16825

Author: Development Assessment Planner – Joanne Dunkerley

Ordinary Meeting: 13 October 2009

DETAILS:

Date Received: 6 June 2008

Applicant: Community of Christ

Owner: Community of Christ Ltd

Land: Lot 203 DP 753168, 4451 The Lakes Way Tiona

Area: 32.37 Ha

Property Key: 16825

Zoning: 7(b) - Conservation, GLLEP 1996

SUMMARY OF REPORT:

- The application proposes the construction of a hall for a 'place of worship' within the grounds of the existing tourist facility.
- 'Place of worship' are prohibited development within the 7(b) – Conservation Zone.
- The applicant proposed the development on the basis of 'existing use rights' as a 'place of worship'.
- The applicant has not been able to prove that the site has an existing use as a 'place of worship'.
- As the development is prohibited within the 7(b) – Conservation Zone, Council is unable to grant consent to the development.
- The proposal is inconsistent with the requirements for Planning for Bushfire Protection 2006.
- Insufficient information has been submitted to assess other matters of consideration including ecological, stormwater, and access and traffic impacts.

SUMMARY OF RECOMMENDATION:

That the application be refused.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Compliance with Council Policies.

LEGAL IMPLICATIONS:

The applicant has the right to appeal against Council's decision.

LIST OF ANNEXURES:

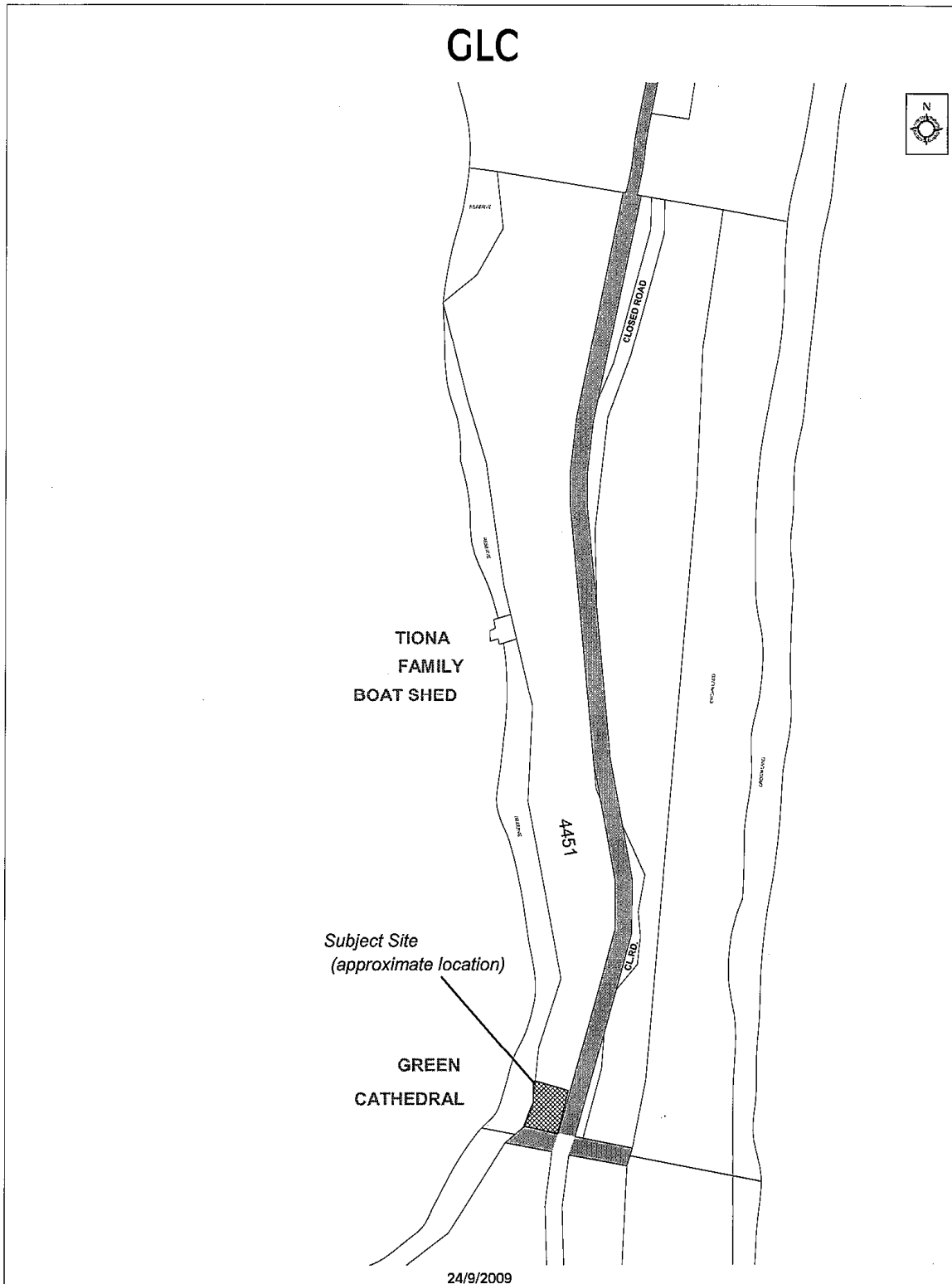
A: Plans of the proposed development

LIST OF ATTACHMENTS:

A: Copy of Council's Legal Advice

Attachment A has been classified as confidential and circulated to Councillors and Senior Staff only. The Attachment has been classified as confidential in accordance with Section 10A (2) of the Local Government Act 1993 as it relates to advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

SUBJECT SITE AND LOCALITY:



Disclaimer.
This map was produced by Great Lakes Council using information from the Land Information Centre.
Great Lakes Council accepts no responsibility either in contract or tort (or particularly in negligence) for any errors, omissions or inaccuracies whatsoever contained within or arising from this map.
Copyright: Great Lakes Council
Copyright: Land and Property Information N.S.W.

BACKGROUND:

The application was lodged with Council on 6 June 2008 and on 10 June 2008 the payment of additional fees was requested in order to allow Council to advertise the application. The additional fees were received on 20 June 2008 and on 25 June 2008 referrals and notification were undertaken. The application was advertised for a period of 28 days from 2 July 2008. On 21 July 2008, Council requested that the applicant provide information to support their claim of existing use rights.

The application was reviewed by the Development Traffic Advisory Committee on 13 August 2008 where a number of issues were raised. In order to address issues raised during the assessment of the application, the applicant was requested to submit additional information by letter dated 8 September 2009. The additional information requested included, the submission of architectural plans drawn to scale, a report to address flooding and climate change, a flood evacuation plan, a traffic study and parking details, proposed hours of operation, tree retention and removal plan and arborists report, a seven-part test and/or ecological report and a stormwater management plan. The applicant indicated that this information would be submitted at a later date pending resolution of the existing use rights issue.

On 20 April 2009 the applicant submitted some information in support of their existing use rights claim. On the 18 May 2009, Council requested additional information and this was submitted to Council on the 17 June 2009. On 6 July the application was referred to Council's Solicitor for advice regarding the existing use rights claim. On 19 August 2009, Council received legal advice that the applicant had not established existing use rights and on 20 August 2009 the applicant was formally advised that Council could not support the application as existing use rights had not been established.

PROPOSAL:

The application proposes the demolition of the existing timber stage/storeroom and erection of a hall for use as a place of worship. The hall is also proposed to contain a small kitchen, office, store room and toilets. Four car parking spaces, a masonry entry fence and information signs are also proposed. The building will be used for worship services, weddings and funerals.

A copy of the plans is attached as Annexure A.

SITE DESCRIPTION:

The site is located on the western side of The Lakes Way at Tiona Park and is currently used as a caravan park. The building is proposed to be located at the southern end of the site in an area of the park that is currently vacant other than a wooden stage/storage building that was erected many years ago. A small marquee has been erected (without consent) some time in the last few years in front of the stage building and this will be the subject of a separate report at a later date. The area of the proposed building contains a mix of remnant and landscape trees over a modified groundcover. To the west of the development site there is an area of significant vegetation dominated by Cabbage Tree Palm closed forest/rainforest and the site is also located within 100 metres of mapped littoral rainforest.

The site is near the 'Green Cathedral' which is located adjacent to Wallis Lake on the adjoining land and Booti Booti National Park is located to the south of the site.

REPORT:

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

The provisions of any environmental planning instrument; any draft environmental planning instrument that is or was on public exhibition and which have been notified to the consent authority; any DCP; any matters prescribed by the regulations that apply to the Development Application on the subject land

Great Lakes Local Environmental Plan 1996 (GLLEP 1996)

The site is zoned 7(b) – Conservation under GLLEP 1996. The objective of the zone is to enable a limited range of development (including tourist facilities) on land possessing special aesthetic or conservation values where:

- (a) it can be demonstrated that the development can be carried out in a manner that minimises risks from natural hazards; and
- (b) the development functions efficiently; and
- (c) the development does not prejudice other economic development; and
- (d) the development does not significantly detract from the scenic quality of the land within the zone; and
- (e) the development is unlikely to have a significant detrimental effect on the growth of native plant communities; and
- (f) the development is unlikely to affect the survival of native wildlife populations; and
- (g) the development is unlikely to adversely affect the provision or quality of habitats for either indigenous or migratory species.

Places of worship are prohibited development within the zone. A 'place of worship' is defined under GLLEP 1996 as:

"means a building or place used predominately for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group"

Section 107 of the Environmental Planning and Assessment Act 1979, however, allows Council to consider applications for the alteration or extension of a building, an enlargement or intensification of an 'existing use'.

'Existing use' is defined under the Environmental Planning and Assessment Act 1979 as:

- a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and*
- b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

On 18 January 1963, Interim Development Order (IDO 1) was gazetted and this planning instrument permitted the establishment of a 'place of worship' on the land subject to development consent first being obtained. Development Consent for a place of worship at the site was never granted. On 13 December 1996 GLLEP 1996 was gazetted and this had the effect of prohibiting a 'place of worship' on the land. As such, to establish existing use rights the applicant needed to demonstrate that the site had been used as a 'place of worship' prior to the introduction of IDO 1 and that that part of the site had been used continuously as a 'place of worship' since that time.

The applicant provided copies of programs for the "Tiona Reunion" family camp that have been held annually at the caravan park in support of their claim that the site has existing use rights as a 'place of worship'. The programs for the annual reunions refer to worship, mediations, baptisms (in the lake) and prayers being held in the Green Cathedral, which is located on the adjoining land. Other activities such as choir practice, orchestra and study classes are held in buildings within the caravan park. The programs also describe the annual reunions as camps as they include references to:

- the various locations around camp
- the Tiona Park Management rules
- the presence of a camp director
- the family camp manager,
- the holiday nature of the Christian fellowship to be enjoyed at the camp

The application was referred to Council's Solicitor for review and to provide advice as to whether or not existing use rights for a 'place of worship' had been established. Council's Solicitor has concluded that the applicant has not established existing use rights as a 'place of worship'. A copy of Council's legal advice is provided in Attachment A (for Councillors and Senior staff only) and an extract is provided as follows:

"The substantial use of the land is for the purposes of a tourist facility and if that use at a particular time of year takes on a flavour of Christian fellowship with related activities then that event does not change the dominant characterisation of the land as a tourist facility. All the documentation submitted in support of the development application shows that the use of the land for the annual reunion is part and parcel of the tourist facility development on the land."

As the applicant has not established an existing use of the site as a 'place of worship' and the proposed use is a prohibited use within the 7(b) – Conservation Zone, Council cannot consent to the development and therefore the application must be refused.

State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)

SEPP 71 applies to all land within the coastal zone as defined in the Coastal Protection Act and accordingly applies to the subject site to the extent of requiring Council to consider the matters listed in Clause 8 of the policy and Clause 16 relating to the disposal of stormwater. Although the development is prohibited under the provisions of GLLEP 1996, sufficient information has not been submitted to determine if the proposal satisfies the aims and objectives of the SEPP 71, in particular:

- the suitability of development given its type, location and design and its relationship with the surrounding area – additional information including traffic studies and car parking details, an ecological assessment and tree retention/removal plan have not been submitted and therefore the suitability of the site cannot be adequately determined.
- measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats and existing wildlife corridors and the impact of development on these corridors – an ecological assessment report is required to assess the condition of the Cabbage Tree Palm closed forest/rainforest to the west of the proposed building footprint to conclusively determine whether or not this habitat unit is an endangered ecological community and to determine the likely direct and indirect effects of the development.
- the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards and the likely impacts of development on the water quality of coastal water bodies – reports detailing the possible impacts from climate change as well as a stormwater management plan are need to address these matters.

In addition to a 'place of worship' being a prohibited use, these matters have not been addressed through the submission of appropriate stormwater, fauna and flora reports to determine compliance with the requirements of SEPP 71.

State Environmental Planning Policy 26 – Littoral Rainforests (SEPP 26)

The aim of SEPP 26 is to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state. SEPP 26 applies to land within 100m of mapped littoral rainforest. SEPP 26 also restricts Council from granting consent to any development within 100m of mapped littoral rainforest unless the concurrence of the Director General of the Department of Planning is received. A copy of the application is also required to be referred to the National Parks and Wildlife Service for comment.

Council's Senior Ecologist has reviewed the proposal and commented as follows:

"there appears to be some anomalies or inadequacies in the reporting of anticipated environmental impacts within the DA supporting material, associated with the presence of some works within the 100-metre buffer to gazetted SEPP26, the extent of tree removal/ lopping required by the works and the significance of such and the indirect effects of the proposal on littoral rainforest EEC to the west of the proposed building footprint. I am not satisfied that the DA can be determined until the pertinent questions have been answered with additional information and material provided by the applicant. In order to consider the full range of statutory questions, additional information is required by the Applicant."

Insufficient information has been provided to determine if the proposal satisfies the aims of SEPP 26, therefore the application has not been referred to the Department of Planning to determine whether or not concurrence should be granted to the proposal and has not been referred to the National Parks and Wildlife Service for comment.

NSW Coastal Policy 1997

The NSW Coastal Policy applies to the coastal zone as defined in the Coastal Protection Act 1979 and is a 'prescribed matter' under Section 79C (1) (a) (iv) of the EP &A Act. The Coastal Policy contains a detailed range of objectives and strategic actions for coastal zone planning and management. Although there are no specific provisions that would apply to the proposal, compliance with the objectives and strategic actions is required. As previously discussed insufficient information has been submitted to demonstrate compliance with the objectives and strategic actions of the NSW Coastal Policy.

Coastal Design Guidelines for NSW

The NSW Coastal Design Guidelines compliments the Coastal Policy and SEPP 71 and is based on the principle of ecologically sustainable development. The Guidelines aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines set out detailed 'Desired Future Character' statements for various categories of settlement ranging from hamlets to cities as well as general design principles. Of particular relevance are the objectives for protecting the natural edges of existing settlements which include:

- protecting buildings and properties from storm events and sea level rise
- manage bushfire risk and provide areas for managing bushfire asset protection
- protect sensitive ecological areas.

As previously discussed, insufficient information has been provided to demonstrate that the proposal is consistent with the Coastal Design Guidelines.

The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

As previously discussed, insufficient information has been submitted to determine if the proposal is satisfactory in the context and setting. However, given that a 'place of worship' is prohibited development within the 7(b) – Conservation Zone and having regard to the objectives of the zone and the existing site constraints, particularly the use of the site as a tourist facility and the significant vegetation on and adjacent to the site, it is considered that the proposal is inconsistent with the surrounding context and setting.

Site Design and Internal Layout

The site design and layout of the proposal is considered to be unsatisfactory as appropriate consideration has not been given to the provision of access and parking, retention and protection of significant vegetation, flooding and climate change impacts, bushfire and required asset protection zones.

Visual Impact

It is considered that insufficient information has been submitted to assess the visual impacts of the proposal having regard to traffic and car parking requirements, vegetation and stormwater disposal issues.

Access, Transport and Traffic

The application was referred to the Development Traffic Advisory Committee who concluded *"that the proposed church would create a severe traffic hazard in relation to both parking and site access"* and recommended that the matter be deferred pending the following being provided to the Committee for consideration:

- a) Analysis of the traffic likely to be generated by the development; and
- b) Details demonstrating compliance with parking and access requirements on or around the site.

Appropriate traffic and parking studies have not been undertaken and submitted for Council's assessment. It should be noted that the use of the site as a caravan park and the presence of significant vegetation on and near the site sets significant limitations for the provision of on-site car parking.

Utilities

All appropriate utilities area available to the site.

Drainage

The applicant has indicated that rainwater tanks and bio-retention swales will be utilised for stormwater; however, insufficient detail has been provided to assess the suitability of these measures having regard to the site limitations posed by significant vegetation and the existing caravan park sites.

Flora and Fauna

The application was referred to Council's Senior Ecologist who raised the following concerns:

"The DA asserts that only two Banksia trees and two palms would be removed for the development proposal. My investigation of the subject land identified the following:

- *Two (2) exotic Coral Trees shall be removed for the reinforced concrete paving driveway;*
- *The significant, mature Fig tree may be directly or indirectly affected by the proposed building, which is located over the trees critical root zone and which may affect the canopy of the tree;*

- *Two (2) rainforest trees occupy the footprint of the proposed building and would need to be removed. These trees were not identified on the site concept and landscaping plan;*
- *The western projection of the proposed building extends into the modified periphery of the Cabbage Tree Palm rainforest and may cause the removal of numbers of semi-mature or juvenile rainforest trees, banksia, forest red gum and cabbage tree palms;*
- *Disposal of roof run-off and surface run-off from the pervious reinforced concrete paving has some potential to alter conditions for existing trees and habitat;*
- *There is some potential for the proposal to exert a direct or indirect influence on the Cabbage Tree Palm closed forest/ rainforest to the west of the development footprint through edge effects, bushfire management, altered stormwater disposal and access. This area is not a gazetted SEPP26 littoral rainforest, but is likely to satisfy the definition of lowland rainforest EEC or littoral rainforest EEC (as listed on the TSC Act and therefore some implications associated with s5A of the EP&A Act 1979 may arise); and*
- *The subject lands are ecologically significant, both with respect to adjacent vegetation communities and habitats of high conservation value and the ecological, amenity and heritage value of existing mature native vegetation.*

The applicant has not addressed these issues through the submission of additional information and therefore the proposal is considered to result in a significant detrimental impact on flora and fauna.

Bushfire

The proposal was referred to the NSW Rural Fire Service (RFS) in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979. The RFS have indicated that the proposal does not satisfy the intent of section 4.2.6 of Planning for Bushfire Protection 2006 as a 33m asset protection zone is required on the southern and western sides of the building in order to provide sufficient space for fire fighters and emergency personnel to undertake operations under critical conditions while supporting evacuation of occupants.

The RFS have also advised that the APZ must be contained wholly within the property boundary and that it is not acceptable to rely on the fire trail situated adjacent to the southern boundary on the adjoining National Park. Accordingly, the building would need to be repositioned to meet this requirement and/or would require the removal of significant vegetation which includes EEC plants. It should also be noted that the use of the site as a caravan park and the presence of significant vegetation on and near the site sets limitations on the relocation of the building within the site.

Climate Change

Impacts of climate change through flooding and coastal erosion has not been considered by the applicant. Accordingly, Council's Engineering Development Officer has requested the submission of a report by a suitably experienced and qualified engineer specialised in the field of coastal erosion to provide comments on the extent of coastal erosion adjacent to the site resulting from rising sea levels in combination with the 1 in 100 year ocean storm wave and several severe storms within a short time period and to make appropriate recommendations to protect the development site.

This information has not been submitted by the applicant so that Council can consider the potential impacts of climate change on the development site.

The Suitability of Site for the Development

The proposal is not considered to be suitable for the site as 'places of worship' are prohibited within the 7(b) – Conservation Zone and the proposal is inconsistent with the existing use as a tourist facility.

Existing site constraints including the presence of significant vegetation, flooding, bushfire, access and parking have not been appropriately considered in the design and location of the proposed building.

Any Submissions Made in Accordance with the Act or Regulations

The application was advertised in The Advocate for a period of 28 days from the 2 July 2008 as well as being notified to the adjoining property owners in accordance with Council's Notification Policy. Three submissions were received in support of the application. The submissions referred to the following issues:-

1. *Alternative venue to the Green Cathedral*

All three submissions raise the issue that the building will offer an alternative venue to the Green Cathedral in times of inclement weather and/or colder weather

Comment: The Green Cathedral is located on the adjoining property and the applicant has not established that the location of the proposed building has existing use rights as a 'place of worship'. As such Council is unable to legally grant consent for a use which is prohibited on the site.

2. *Traffic and Parking*

Two submissions suggest that the same traffic and parking requirements will apply as the building will only be used in times of inclement weather

Comment: If the use were permissible on the site, consideration would need to be given to traffic and car parking as the construction of a hall for a 'place of worship' is considered to be an intensification of use. If existing use rights as a 'place of worship' had been established, Council is obligated under the provisions of the Environmental Planning and Assessment Regulation 2000 to consider the impacts associated with additions to or intensification of an existing use. Existing access and car parking associated with the Green Cathedral is not sufficient and the construction of a permanent building that can be used at all times of year would result in greater use of the site and therefore a need to provide appropriate access and car parking facilities.

3. *The building will enhance the visual amenity of the area*

Two submissions suggest that the building will enhance the visual amenity of the area as it will remove the marquee that has been erected.

Comment: The marquee is only a temporary structure that has been erected without the consent of Council at some stage in the last few years and which can be removed at any time to enhance the visual amenity of the area. Insufficient information has been submitted to determine the visual impacts of the proposal on the amenity of the surrounding area.

The Public Interest

It is not in the public interest to approve a development that is prohibited within the 7(b) – Conservation Zone or where sufficient information has not been submitted to determine compliance with all relevant planning controls.

CONCLUSION:

Council's legal advice identifies that the predominant use of the site is as a tourist facility and the applicant has not established that the site has an existing legal use as a 'place of worship'. Council cannot grant consent to the proposal as a place of worship is prohibited development within the 7 (b) – Conservation Zone.

The location of the building is also inconsistent with the requirements of Planning for Bushfire Protection 2006 and insufficient information has been submitted to determine if the proposal is satisfactory with regard to:

- flora and fauna
- stormwater
- access and car parking
- flooding and climate change.

The application has not been referred to the Department of Planning to seek concurrence or to the National Parks and Wildlife Service in relation to SEPP 26 as insufficient information has been submitted and the development is prohibited in the zone.

RECOMMENDATION:

It is recommended that the application for the construction of a hall for a 'place of worship' at Lot 203 DP 753168, 4451 The Lakes Way Tiona, be refused for the following reasons:

1. A place of worship is prohibited development within the 7(b) – Conservation zone.
2. The applicant has not established that the site has existing use rights as a 'place of worship'.
3. The proposal is inconsistent with the requirements of Planning for Bushfire Protection 2006.
4. Insufficient information has been submitted to determine the impacts of the proposal in relation to flora and fauna, access and car parking, stormwater, flooding and climate change.
5. The development is not in the public interest.

It is recommended that Attachment A be classified as Confidential in accordance with Section 10A (2) of the Local Government Act 1993 as it relates to advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**3 PES - Pacific Palms Draft Local Environmental Plan Request by Owner
Lot 10 DP 633645, Boomerang Drive, Boomerang Beach**

Index: SP-LEP-13, Land Use Planning/Pacific Palms Study
Author: Release Area Manager - Roger Busby
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

This report presents a request from Mr Rowntree for some enlargement of the residential zone over Lot 10 DP 633645 in the draft LEP for Pacific Palms. This matter was deferred from the Council meeting of 22 September 2009 and is resubmitted for consideration.

SUMMARY OF RECOMMENDATION:

That in relation to Lot 10 DP 633645, Boomerang Drive Council resolve to amend the draft LEP for Pacific Palms so as to rezone the land, for a depth of 45m from Boomerang Drive, to 2 (a) Low Density Residential and the balance of the land be zoned 7(a1) Environmental Protection.

FINANCIAL/RESOURCE IMPLICATIONS:

The work is being accommodated within the Strategic Planning section.

POLICY IMPLICATIONS:

The LEP will set Council's policy for the future development and environmental protection of the Pacific Palms area.

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Map showing the Location of the Land

LIST OF ATTACHMENTS:

Nil

REPORT:

Background

In March of this year Council considered a report on the draft Local Environmental Plan for Pacific Palms. At the meeting Council decided to support some expansion of the urban zones if the owners were prepared to protect the balance of their land into perpetuity. Council was of the view that the simplest and most effective way to achieve the protection was for the land to be transferred to the Department of Environment and Climate Change.

One property affected by Council's resolution was Lot 10 DP 633645, owned by W and C Rowntree. In relation to this property Council resolved to adopt the SMEC recommendation as the owners had not responded to Council's letters outlining the option of an offset arrangement. SMEC recommended that the front of the property be zoned 2(a) Low Density Residential (approximately 3,700 m²) and the rear (approximately 2,700m²) be zoned 7(a1). The SMEC recommendation was for approximately the front 35m of Lot 10 to be rezoned to residential and about the rear 40m to be zoned 7(a1) Environmental Protection.

Mr Rowntree addressed the Council meeting of 26 May 2009 to express his concerns with only a limited amount of his land proposed to be rezoned to residential as recommended by SMEC.

The owners have requested that the residential zone be extended to include the front 50m of their land leaving about 25m to be zoned environmental protection. According to the owners this will allow them to use the existing driveway that runs parallel the front of their property as the access road to future subdivision of the residential part of their land.

Under the SMEC scenario the access road would have had to be at the rear of the residential area and would have also functioned as part of the bush fire asset protection zone. The SMEC scenario could be accommodated in a minimum depth of 38m whereas the owner's proposal would necessitate a depth of approximately 45m. The main reason for the difference between the two distances is that the APZ under the SMEC scenario would partly comprise the access road whereas, under the owner's scenario, the APZ would be in addition to the width of the access road. The owner has requested a depth of 50m which includes 6m for some flexibility.

Based on survey details provided by the owner the following sets out the differences in the two scenarios when measured back from the Boomerang Drive frontage.

Proposal	Front setback	Access road	Dwelling envelope	Rear yard/APZ	Access	Total
SMEC	6m	0	12m	12.5m	7.5 part of APZ	38m say 40m
Owner	6m	7.5m	12m	20m	0	45.5m say 45m

It is possible that the existing driveway may not meet Council's engineering standards in relation to the angle at which it joins Boomerang Drive. The need for the access to be provided at the rear of the residential area is therefore a possibility.

Options for Council

There are two main questions for Council; the first is whether it wishes to provide for a residential depth of 40m, 45m or, as requested by the owners, 50m. The second question is whether any increase above that recommended by SMEC should be contingent upon the remainder of the land being protected into perpetuity by transfer to DECC. The owners have advised that they would be prepared to agree to the transfer of the 7(a1) land to DECC but they have asked why they have to do so.

The main point with the transfer to DECC is that it is entirely voluntary. As the owners are somewhat hesitant about transferring the land to DECC and also due to the fact that such a small area of land is concerned it would be reasonable for Council to provide for a depth of 45m without further considering the transfer of the balance of the land to DECC.

RECOMMENDATION:

That in relation to Lot 10 DP 633645, Boomerang Drive Council resolve to amend the draft LEP for Pacific Palms so as to rezone the land, for a depth of 45m from Boomerang Drive, to 2 (a) Low Density Residential and the balance of the land be zoned 7(a1) Environmental Protection.

4 PES - Cape Hawke Community Hospital

Index: SP-LEP-77

Author: Manager Strategic Planning - Alex Caras

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Council on 24 February 2009 adopted draft Great Lakes Local Environmental Plan Amendment No. 77 which sought to rezone land in South Street, Forster for an Integrated Primary Health Care Facility. This report provides updated advice that the plan has now been made by the Minister.

SUMMARY OF RECOMMENDATION:

That this information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Copy of Great Lakes Local Environmental Plan (Amendment 77) as published in the Government Gazette on 25/09/09 and corresponding zoning map

LIST OF ATTACHMENTS:

Nil

REPORT:

Council at its Ordinary meeting on 24 February 2009 resolved the following in relation to draft LEP Amendment No. 77:

1. *Resolve to adopt the draft Great Lakes Local Environmental Plan 1996 (Amendment No 77), as contained in Annexure "A" to this report;*
 2. *Refer the adopted plan to Parliamentary Counsel for an opinion as to whether the plan can be legally made;*
-

3. *Upon receipt of Parliamentary Counsel's Opinion that the plan can be legally made, forward the draft LEP to the Minister under section 69 of the Environmental Planning and Assessment Act 1979, with a request that the plan be made.*

Council will recall that the draft plan sought to rezone land in the South Street Medical Precinct of Forster from Zone No. 2(b) (Medium Density Residential Zone) and Zone No. 6(a) (Open Space and Recreation Zone) to *Zone No. 5(a) (Special Uses – 'Hospital')*, specifically to enable the provision of an Integrated Primary Health Care facility.

The purpose of this report is to advise that the abovementioned Plan was gazetted (and thus became effective) on 25 September 2009. A copy of the gazetted Plan and corresponding zoning map is contained in Annexure 'A'.

RECOMMENDATION:

That this information be noted.

5 PES - Assessment of Submissions received from the Exhibition of the North Hawks Nest Draft LEP

Index: SP-LEP-27, SP-LEP-50

Author: Release Area Manager - Roger Busby

Release Area Co-ordinator - Robert Dwyer (RPS Harper Somers O'Sullivan)

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

This report provides an overview of the North Hawks Nest draft LEP that was recently exhibited and presents the submissions received as a result of the exhibition.

SUMMARY OF RECOMMENDATION:

It is recommended that in relation to Great Lakes Local Environmental Plan 1996 (Amendment No. 27) Council:

- A. Resolve to prepare Development Control Plan for North Hawks Nest so as to ensure the main findings of the Local Environmental Study relating to the built form, servicing and infrastructure and environmental management etc are given effect at the development application stage.
 - B. Amend the Local Environmental Study to show the correct location of the Michael Rowe Walk.
 - C. Defer, under s68 (5) of the Environmental Planning and Assessment Act, for further consideration, all the land covered by the draft LEP except for the rezoning of Lot 1 DP 868540 (Hawks Nest Golf Club) to 2(b) Medium Density Residential.
 - D. The draft LEP as contained in Annexure "A", only as it relates to the rezoning of Lot 1 DP 868540 to 2(b) Medium Density, be adopted and forwarded to the Director General of the Department of Planning under s68 of the Environmental Planning and Assessment Act with a request that the plan be made.
 - E. Grant delegated authority to the Mayor and General Manager to adopt the draft LEP as contained in Annexure "A" (the deferred area) upon:
 1. The insertion in the draft LEP of an appropriate clause, as advised by the Department of Planning, which will ensure satisfactory arrangements are made for the transfer of the privately owned land shown in Annexure "C" to the National Park estate.
 2. The Department of Environment of Climate Change and Water advising Council that the Voluntary Planning Agreement to give effect to the transfer of land to the National Park estate has been executed by all relevant parties and registered upon the title of all properties the subject of the transfer.
 3. The execution of the proposed Voluntary Planning Agreement between Council and Crown Land Developments whereby Crown Land Developments will provide funds to Council to purchase Lot 53 DP 753166 if the opportunity should arise at some stage in the future.
 4. The exhibition of a draft Development Control Plan for the area.
-

- F. The draft LEP, when adopted in accordance with E above, be finalised by referral to the Director General of the Department of Planning under s68 of the Environmental Planning and Assessment Act with a request that the plan be made.

FINANCIAL/RESOURCE IMPLICATIONS:

The proponent of development within the study area is covering to the cost of the administration of the LES / draft Local Environmental Plan (LEP) process.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

There are opportunities for appeal against a gazetted Local Environmental Plan

LIST OF ANNEXURES:

- A: Copy of Draft LEP No.27 as exhibited.
- B: Summary of submissions.
- C: Map showing land proposed for transfer to DECCW.

LIST OF ATTACHMENTS:

Nil

REPORT:

BACKGROUND

The North Hawks Nest draft local environmental plan (Draft LEP No.27) and local environmental study (LES) were placed on public exhibition for two months from 2 July to 28 August 2009. Draft LEP No.27, as contained in Annexure 'A', proposes to rezone about 90 ha of land on the eastern side of Mungo Brush Road for future development and the remainder of the land (approximately 500 hectares) including all private properties on the western side of the road, to environmental protection. As a biodiversity offset about 300 ha of the 7(a1) zone is proposed to be added to the National Park. The rezoning will, if endorsed by the Minister for Planning, be an important step in the process of establishing a sustainable development and conservation outcome for all the land between Hawks Nest village and Myall Lakes National Park.

The draft LEP proposes to rezone the land from the current rural 1(c) Future Urban Investigation to the 2 (a) Low Density Residential, 2(b) Medium Density Residential, 3(a) General Business, 5 Special Uses and 7(a1) Environmental Protection zones under Great Lakes Local Environmental Plan 1996.

The residential zones will allow land within these zones to be subdivided and developed for residential and associated purposes. In the 2(a) zone the land will primarily be developed for low density purposes, such as single houses and dual occupancies. Units and residential flat buildings as well as other suitable uses, such as restaurants, tourist facilities and motels, will be permitted in the 2(b) zone. The 3(a) Business zone, being in the middle of the future development area, will permit a range of retail and commercial uses to support and service the surrounding residential areas.

The 5(a) Special Uses (Sewerage Treatment Plant) zone recognises the existing MidCoast Water sewerage treatment plant and the 5(a) Golf Course zone is intended to allow some modifications to the layout of the existing golf course. The modifications will improve the safety and standard of the golf course.

The environmental protection zone is being applied to the part of the land that, according to the Local Environmental Study, is of high environmental value. It is of high value because it contains a great diversity of plants and animals, including rare and threatened species (notably the endangered Hawks Nest Koala population) and endangered vegetation communities.

Land in the 7(a1) zone will be protected from development. Legal mechanisms are to be put in place to require the private land on the western side of Mungo Brush Road and some land on the eastern side of the road to be added to the Myall Lakes National Park.

The draft LEP also includes the rezoning of Lot 1 DP 868540, Sanderling Avenue (Hawks Nest golf club) to medium density residential. The intention of this zone is to allow some tourist accommodation to be developed in conjunction with the golf club. Council resolved to rezone this property as a separate LEP in January 2006 but the Department of Planning advised Council that the rezoning had to be incorporated into the draft LEP for North Hawks Nest.

The exhibited Local Environmental Study presents a current and comprehensive overview of the Study Area, provides a balanced evaluation of the possible development and conservation options and was the basis for the preparation of the Draft LEP. It also provides the basis for the biodiversity offset that are to be given effect by Proposed Voluntary Planning Agreement between Council and the developer and between Crown Land Developments and the Department of Environment Climate Change and Water.

PUBLIC EXHIBITION

Draft LEP No.27, the LES and a Proposed Voluntary Planning Agreement for acquisition of Lot 53 DP 753166, Mungo Brush Road were publicly exhibited between 2 July 2009 and 28 August 2009. Given the considerable debate over past years on the future of the North Hawks Nest area the following advertising and promotion, over and above the statutory requirements, was undertaken so as to inform the community on the draft LEP and to gauge the community's reaction to the LES and draft LEP:

- Staff gave a presentation to the community early in the exhibition period and about 40 people were in attendance.
- Letters advising of the exhibition of the draft LEP and its availability on Council's web site were sent to:
 - All landowners in the study area
 - Interest groups in Hawks Nest/Tea Gardens
 - All absentee landowners
- The draft LEP and other relevant documentation were placed on Council's web site.
- The LES, draft LEP, plain English explanations and other supporting documents were displayed at Council's Tea Gardens and Forster offices.
- Media releases were published in the NOTA newspaper.
- Council's Release Area Manager gave two interviews with ABC Radio.

PUBLIC SUBMISSIONS RECEIVED

A total of six (6) public submissions were received, three of which support the draft LEP and three were objections. Submissions in support were made by the Myall Koala and Environmental Support Group, Hawks Nest/Tea Gardens Progress Association and Hawks Nest Golf Club. Although the two community groups have indicated their support for the draft LEP they have both expressed concern at the retention of the residential zone over Lot 25 DP 753166, in the south western corner of the study area, owned by the Department of Lands. This property is an important movement corridor for the Koala and both groups have requested that it be zoned environmental protection as soon as possible.

Submissions were also made by three Government Agencies.

A summary of the submissions and a thorough response to issues raised by each is presented in Annexure 'B'. In general, the issues raised include:

- Concern that land owned by the Department of Lands zoned 2(a) Low Density (western side of Mungo Brush Road) was not included in the 7(a1) zoning;
- Queries as to the location of the Michael Rowe walk as illustrated in the LES;
- Lack of detail with respect to rehabilitation of lands on the western side of Mungo Brush Road;
- Preference for the whole site to be zoned Environmental Protection;
- Perceived loss of amenity for residents in the vicinity of the Singing Bridge;
- Safety of pedestrians and cyclists on the Singing Bridge;
- Concerns on the estimates of the magnitude and timing of the costs of local traffic network upgrades.
- How will Council guarantee that the type of development envisaged by the LES will be delivered?
- Failure to take into consideration Police case no. C1411.2443 will render the LEP invalid.
- Consideration has not been given to the effects of global warming.
- Claims that the Inquiry held in 2001 was a statutory inquiry under the EP&A Act and that the failure to adhere to the findings is illegal.
- The Koala assessment in the LES, including:
 - Failure to adhere to previous SEPP 44 findings relating to core Koala habitat
 - Concern that previous Koala quadrats have not been referenced in the LES
 - Continued allegations regarding the validity of Koala plots in the area.
 - Failure of the proponents Koala expert to adhere to the statutory findings of the Koala Recovery Plan for Hawks Nest and Tea gardens.

After review of the issues raised by the submissions it is considered that no amendments are necessary to Draft LEP No.27. A summary of these submissions is contained in Annexure 'B'.

AGENCY CONSULTATION

In addition to the extensive Section 62 consultation that has occurred in the past, the following authorities / agencies were provided with the complete Draft LEP No.27, LES and Proposed Voluntary Planning Agreement.

- Department of Environment, Climate Change and Water.
- Department of Water and Energy
- Roads and Traffic Authority
- Hunter – Central Rivers Catchment Management Authority
- Department of Lands (now titled as the Land and Property Management Authority)
- MidCoast Water

Responses have been received from the Hunter – Central Rivers Catchment Management Authority, Land and Property Management Authority (Department of Lands) and NSW Office of Water. A summary of these submissions is contained in Annexure 'B'.

After review of the issues raised by the agencies who responded, it is considered that no amendments to Draft LEP No.27 are necessary.

PUBLIC INQUIRY AND CONSERVATION/DEVELOPMENT OFFSET ARRANGEMENT

Council's position after the Public Inquiry in 2001, and upon considering the report of the experts group of consultants appointed after the Inquiry, was that some development could occur at North Hawks Nest but only if it was part of a conservation/development "package". Crucial to the "package" was the establishment of a mechanism to protect the land of high ecological value into perpetuity. A Local Environmental Study, which drew upon the findings of the Public Inquiry and the expert consultants, was to be prepared to clearly identify the areas of ecological value that had to be protected, to explore the mechanisms to afford the protection and to refine the development footprint.

To deliver the conservation/development offset (or "package") sought by Council, Crown Land Developments (the proponent for development in the area) has offered to transfer the land of ecological value to DECC as National Park. The main question has been to decide on a legally binding mechanism to ensure that the transfer will occur. Negotiations have resulted in Crown Land Developments offering to enter into a Voluntary Planning Agreement to transfer about 300 ha of land, mostly on the western side of the Mungo Brush Road, to DECCW. Annexure "C" shows the land for transfer to DECC.

The land to be transferred to DECCW includes nearly all the land identified in the Report on the Public Inquiry and all land identified in the LES as being of highest ecological value. The only departures from the Inquiry report are two small areas of land on the eastern side of Mungo Brush. Both of these areas were scrutinised by the group of consultants appointed by Council to review the Commissioner's recommendations. They agreed, on the basis of more detailed vegetation mapping prepared subsequent to the Inquiry, that these two areas were not as significant as initially thought by the Commissioner. The group of consultants did, however, prescribe that it was imperative for 70% of heath and 70% of Blackbutt forest to be protected and that it was essential that any development outcome was dependent upon protection and rehabilitation of the undeveloped areas. The offset arrangements will be achieved by the transfer of the land to DECCW.

The Department of Planning has advised Council "..... that prior to finalising the LEP, there will need to be resolution of an appropriate environmental offset and a legally enforceable mechanism, including triggers and timing, for the transfer of the land to the conservation reserve at no cost to the Government. As set out in the Departments letter of 17 April 2009, this will require the inclusion of an appropriate 'satisfactory arrangements' clause into the draft LEP once the new Part 5B provisions take effect."

Extensive negotiations with Crown Land Developments, the Department of Planning and Department of Environment Climate Change and Water has resulted in the following legal mechanism to make sure the transfer of the private land occurs:

- The inclusion of an additional clause in the LEP which requires that arrangements satisfactory to the Minister have been made for the transfer of the land to DECC.

This clause cannot be included in the draft LEP until amendments to the Environmental Planning and Assessment Act come into effect later this year.

- A Voluntary Planning Agreement (VPA) under the Environmental Planning and Assessment Act between Crown Land Developments (the developer) and the Department of Environment and Climate Change (DECC). The VPA will stipulate the timing and other legal matters associated with the transfer of the land to DECC. Most likely the VPA will require the transfer to occur before the developer is given an approval that can be acted upon. It will also have to be registered on the title of all affected properties before the LEP is gazetted.

- Although Lot 53 was not included in the offset arrangement, Crown Land Developments agree that it should be added to the National Park. They have offered to enter into a VPA with Council so as to provide funds to Council to purchase Lot 53 DP 753166 if the opportunity should arise at some stage in the future. If Council were to purchase Lot 53 it would then transfer it to DECC for addition to Myall Lakes National Park.

Current Status of the Voluntary Planning Agreements

The proposed VPA relating to Lot 53 was exhibited, in accordance with the Environmental Planning and Assessment Act, at the same time as the draft LEP for North Hawks Nest. No submissions were received to the VPA. Advice was sought from Council's solicitor on the proposed VPA during the exhibition period and numerous amendments have been recommended. When these amendments have been made the proposed VPA will be reported to Council.

Crown Land Developments has submitted a draft proposed VPA for the transfer of the balance of the land to DECCW. This is currently being reviewed by their legal advisers. Once in an acceptable form it will be publicly exhibited by DECC.

As the mechanism for transfer of the land to DECCW has not been given effect, and having regard to the advice from the Department of Planning, the draft LEP cannot as yet be finalised. Council would also want to be certain that the land transfer will occur so it would be appropriate for the draft LEP to only be sent to the Department to be made when the legal mechanisms are in place.

The only problem with this is that it will delay the rezoning of the Golf Club to medium density residential. To avoid this delay it is recommended that Council proceed with the finalisation of the part of the LEP relating the Golf Club and defer the remainder under s68(5) of the Act. Once the transfer mechanisms are in place the draft LEP can be submitted to the Department to be made. It is possible that this may take some months.

DEVELOPMENT CONTROL PLAN

Public submissions have enquired as to what controls will be in place to ensure that the form of development as described in the Local Environmental Study will occur. A DCP should be prepared to give this assurance. Discussions have been held with Crown Land Developments on the need for a DCP and they have submitted a working draft DCP to Council for review. This will be reviewed and reported to Council when it is suitable for endorsement for exhibition.

When adopted, the DCP will guide decision makers on issues such as:

- lot layout
- building height, design and finishes
- treatment of public and private spaces
- landscaping
- environmental performance and management
- servicing and infrastructure and water sensitive urban design principles
- management of the 7(a1) land on the eastern side of the road that will be retained in private ownership
- beach access
- possible further contamination assessment as referred to by the NSW Office of Water
- rehabilitation, especially enhancement of Koala habitat
- relocation of the Michael Rowe Walk
- management of development in the vicinity of the Koala habitat
- keeping of pets

Most likely many provisions from DCP No. 52 Tea Gardens/Hawks Nest Town Centres can be incorporated into the DCP for North Hawks Nest.

It is therefore considered appropriate that Council resolve to commence the development control plan preparation process. To make sure that controls are in place before development applications are lodged the DCP should be at least to exhibition stage before the LEP is submitted to the Minister for approval.

Development within the urban footprint is likely to be governed under the Community Land Development Act 1989 (Community Title). Through this process it is likely that the developer will implement a Design Review Panel whose charter will be to review designs prior to lodgement of plans with the approval authority. It is also likely that built form guidelines, similar to those provided in the DCP, will be attached to individual contracts of sale.

STEPS FROM HERE

The process from here includes:

- Council resolves to forward the golf club component of Draft LEP No. 27 to the Department of Planning for making.
- The proponent and the NSW Government finalise the environmental offset and mechanisms for the transfer of land.
- DCP for the site exhibited and adopted by Council
- Council forwards the LEP for the remainder of the area to the Department of Planning upon the resolution of the mechanism for land transfer.
- Proponent lodges application(s) for development.
- Land transferred to DECCW.

CONCLUSION

Resolution of the LEP will be the culmination of a complex rezoning process that has been ongoing for at least 15 years and which involved a Public Inquiry by the Office of Commissioners of Inquiry, an extraordinary amount of environmental investigation and considerable community debate as to be best result for the area. The development/conservation offset now proposed will, if it can be delivered, result in the "package" that Council was seeking when it decided to support the rezoning of the area in 2004.

As a result of exhibition of Draft LEP No. 27 a number of submissions were received. Whilst the submissions raised a number of concerns it considered that on balance all of the concerns have been adequately dealt with in the LEP and LES preparation process or will be addressed by future actions including the transfer of lands to the National Park system and the preparation of the a DCP for the proposed urban area.

The receipt of only six submissions, after the extensive promotion of the exhibited draft LEP, can only be taken as an indication that the community supports the current proposals especially given the debate over previous proposals.

Council can now refer the part of the draft LEP that relates to the rezoning of the Hawks Nest Golf Club to the Department of Planning with a request that the plan be made. The remainder of the LEP should be deferred until such time as the legal mechanism to ensure the transfer of the land to DECCW has been given effect.

RECOMMENDATION:

It is recommended that in relation to Great Lakes Local Environmental Plan 1996 (Amendment No. 27) Council:

- A. Resolve to prepare Development Control Plan for North Hawks Nest so as to ensure the main findings of the Local Environmental Study relating to the built form, servicing and infrastructure and environmental management etc are given effect at the development application stage.
- B. Amend the Local Environmental Study to show the correct location of the Michael Rowe Walk.
- C. Defer, under s68 (5) of the Environmental Planning and Assessment Act, for further consideration, all the land covered by the draft LEP except for the rezoning of Lot 1 DP 868540 (Hawks Nest Golf Club) to 2(b) Medium Density Residential.
- D. The draft LEP as contained in Annexure "A", only as it relates to the rezoning of Lot 1 DP 868540 to 2(b) Medium Density, be adopted and forwarded to the Director General of the Department of Planning under s68 of the Environmental Planning and Assessment Act with a request that the plan be made.
- E. Grant delegated authority to the Mayor and General Manager to adopt the draft LEP as contained in Annexure "A" (the deferred area) upon:
 - 1. The insertion in the draft LEP of an appropriate clause, as advised by the Department of Planning, which will ensure satisfactory arrangements are made for the transfer of the privately owned land shown in Annexure "C" to the National Park estate.
 - 2. The Department of Environment of Climate Change and Water advising Council that the Voluntary Planning Agreement to give effect to the transfer of land to the National Park estate has been executed by all relevant parties and registered upon the title of all properties the subject of the transfer.
 - 3. The execution of the proposed Voluntary Planning Agreement between Council and Crown Land Developments whereby Crown Land Developments will provide funds to Council to purchase Lot 53 DP 753166 if the opportunity should arise at some stage in the future.
 - 4. The exhibition of a draft Development Control Plan for the area.
- F. The draft LEP, when adopted in accordance with E above, be finalised by referral to the Director General of the Department of Planning under s68 of the Environmental Planning and Assessment Act with a request that the plan be made.

6 PES - Retail Adult Store - Kent Street, Tuncurry

Index: DA 88/2010 Retail Adult Store
Author: Senior Development Assessment Planner - Alan Bawden
DCU Meeting: 13 October 2009

DETAILS:

Date Received: 18 August 2009
Applicant: B. J. Colefax
Owner: Mutisu P/L
Land: Lots 2/3 DP 338039; Shop 5/11 Manning Street Tuncurry
Area: Land = 1005.5 m²; Shop = 93 m²
Property Key: 8108
Zoning: 3(a) General Business, GLLEP 1996

SUMMARY OF REPORT:

- NSW Classification (Publications, Films and Computer Games) Enforcement Act 1995.
- Disability Discrimination Act 1992.
- DCP 28 Exempt and Complying Development.
- Submissions received.

SUMMARY OF RECOMMENDATION:

The Development Application be approved subject to conditions of consent.

FINANCIAL/RESOURCE IMPLICATIONS:

Cost of defending any appeal against Council's decision.

POLICY IMPLICATIONS:

Compliance with Council policies.

LEGAL IMPLICATIONS:

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court.

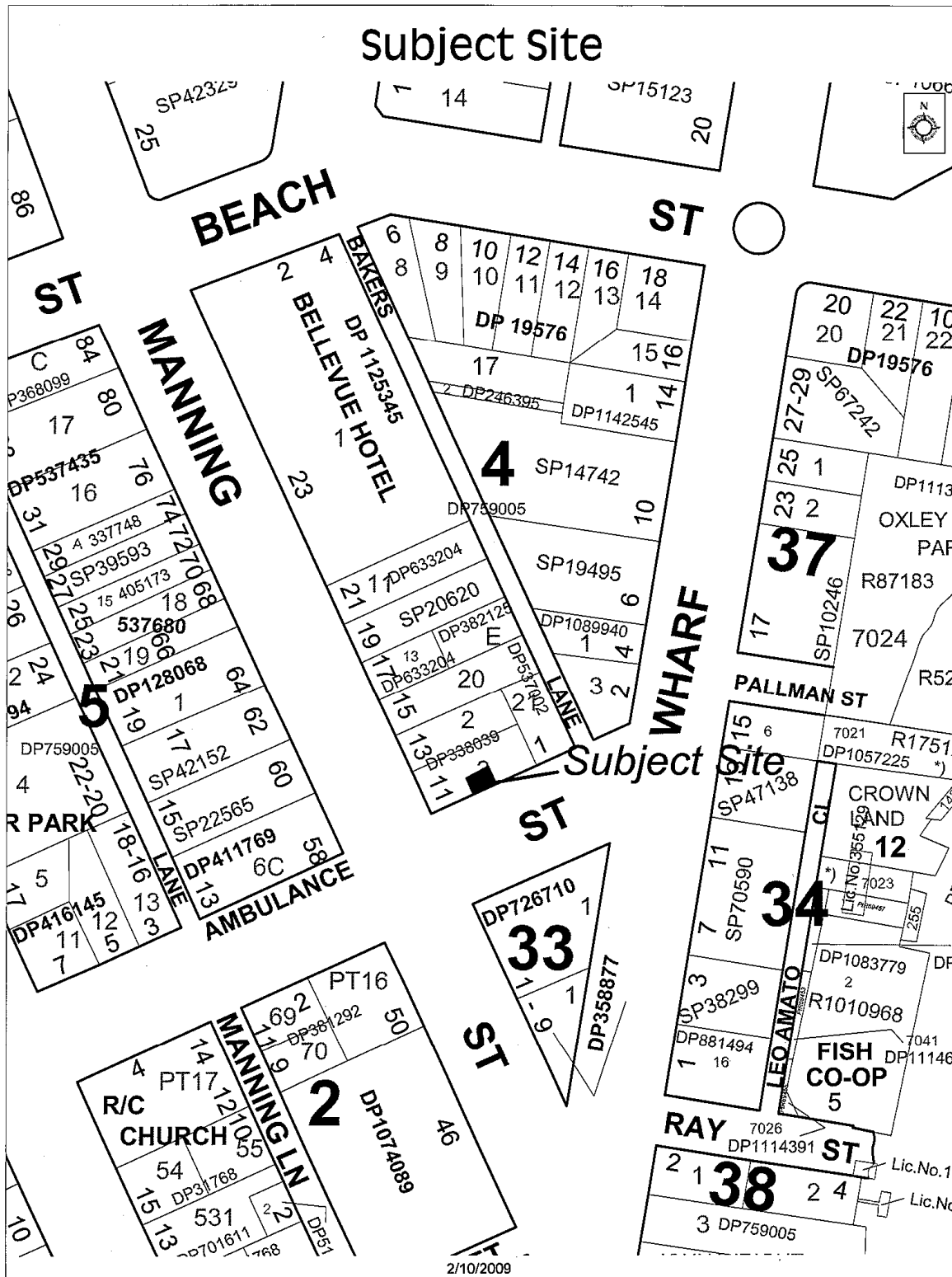
LIST OF ANNEXURES:

Nil

LIST OF ATTACHMENTS:

Nil

SUBJECT SITE AND LOCALITY:



2/10/2009

Disclaimer:
 This map was produced by Great Lakes Council using information from the Land Information Centre.
 Great Lakes Council accepts no responsibility either in contract or tort (or particularly in negligence) for any errors, omissions or inaccuracies whatsoever contained within or arising from this map.
 Copyright: Great Lakes Council
 Copyright: Land and Property Information N.S.W.

BACKGROUND:

Council records indicate that the existing two storey building (known as the Tuncurry Trust building) consisting of five (5) ground level shops and four (4) 1st storey offices including car parking, was approved under DA 1927/1985. The approval included nine (9) on-site car parking spaces and \$93,000 in Section 94 Developer Contributions for off-site car parking.

PROPOSAL:

The proposal is to open a retail adult store within a commercial shopping precinct. The shop will sell adult products and novelties, to persons 18 years of age and over. The applicant has provided the following details:-

"The majority of my stock will be adult novelties of a fun nature catering for adult parties, bucks/hens nights, and all other special occasions where a mature/humorous gift is required. For example, adult ice cube makers, straws, etc.

A small quantity of adult dvds/magazines catering for those persons wishing to view mild erotica.

Massage oils, paints and lubricants.

A small quantity of ladies lingerie.

Adult games.

I would like to point out that there will be certain items I will not be selling, including anything of a violent nature or items that I would feel uncomfortable selling.

Also there will be no explicit images or viewing of explicit movies within the shop premises.

The theme behind the shop will be one of light hearted adult fun and entertainment. My personal objective is for the shop to be viewed as a place for adults to purchase products in a comfortable and easy going environment."

The shop will be operated by one staff person.

The proposed hours of operation are:

Sunday/Monday - Closed.

Tuesday, Wednesday & Friday - 9.30am - 5.30pm.

Thursday - 9.30am - 7.30pm.

Saturday - 9.30am - 2.30pm.

The application states car parking is available both within the site and on Kent Street fronting the shop.

Disabled access is available to the shop however no disabled toilet is available within the shop. The application states financial hardship in being able to provide disabled toilet facilities as substantial remodelling of the interior of the shop would be required.

The business proposed signage will be sign written on the existing shop front window. The shop windows will be decorated with *"tasteful curtains or blind material to prevent view by persons outside the shop"*.

SITE DESCRIPTION:

The proposed shop is within a two storey commercial building fronting Manning and Kent Streets Tuncurry. The shop fronts Kent Street and has a floor area of approximately 93m². The shop consists of an open void with a built in single toilet room and small office area. All other shops in the building have their primary entrance from Manning Street, with a secondary staff access via the rear car park.

Adjoining land uses are all commercial with the nearest residential premises approximately 50 metres to the east in Wharf Street, Tuncurry.

REPORT:

Environmental Planning and Assessment Act 1979

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

The provisions of any environmental planning instrument; any draft environmental planning instrument that is or was on public exhibition and which have been notified to the consent authority; any DCP; any matters prescribed by the regulations that apply to the Development Application on the subject land

Great Lakes Local Environmental Plan 1996 (GLLEP 1996)

The proposed development is defined as a shop under GLLEP 1996.

The subject land is zone 3(a) General Business. Shops are permissible within the zone only with development consent.

The relevant zone objectives are:

- a) *Objective (a) to enable the development of a range of retail and commercial uses which:*
 - (i) *do not adversely impact on traffic movements in the locality, and*
 - (ii) *could reasonably be expected to service existing or identified future trade area populations, and*
 - (iii) *are of a scale and type compatible with the amenity of any surrounding residential area,*

The shop is existing and the application relates to the use of the shop. The use will not adversely affect traffic movements, will provide goods for the local population and is sufficiently distanced from residential land uses. Further the proposed hours of operation will not generate any retail activity beyond 'normal' business hours of other business in the locality.

State Environmental Planning Policy 71 Coastal Protection

The application is for the use of an existing shop and as such no issues affect the requirements of SEPP 71.

Development Control Plan 6 - Outdoor Advertising

The application proposes some advertising signage on the existing shop window (Sweet Temptations Adult Shop) which is consistent with other tenancies within the site. The development is compliant with the advertising and signage provisions of DCP 6.

Development Control Plan 28 Exempt and Complying Development

The DCP states that the following development is not exempt or complying development:

"the exhibition or sale of publications within the meaning of the Indecent Articles and Classified Publications Act 1975; or the exhibition of objects primarily concerned with sexual behaviour";

The proposal includes the sale of adult products and novelties associated with sexual activities. Therefore the development is not exempt under the DCP.

The 'Indecent Articles and Classified Publications Act 1975' was repealed and substituted with 'Classification (Publications, Films and Computer Games) Enforcement Act 1995'. This legislation is discussed below.

Council Policy

Council's Car Parking Policy requires the provision of one space for every 20m² of gross leasable floor space. The change of use has not increased the gross leasable floor space, and therefore no additional car parking spaces are required above and beyond that approved in 1985, which included 9 on-site spaces and a \$93,000 S94 Developer Contribution.

The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

NSW Classification (Publications, Films and Computer Games) Enforcement Act 1995.

This legislation controls the sale and exhibition of classified material (under the Federal legislation) within NSW. The Act states:

"The object of this Act is to give effect to the national scheme for the classification of publications, films and computer games set out in the Commonwealth Act by:

- (a) providing for the enforcement of classification decisions made under the Commonwealth Act, and*
- (b) prohibiting the publishing (including the sale, exhibition, distribution and demonstration) of certain publications, films and computer games."*

The NSW Indecent Articles and Classified Publications Regulation 1995 requires in respect to premises selling restricted publications:

Restricted publications area: sec. 5

- 4. (1) For the purposes of the definition of "restricted publications area" in section 5 (1) of the Act, the following requirements are prescribed:*
 - (a) the premises must be so constructed that no part of the interior of the premises is visible to any person outside the premises;*
 - (b) each entrance to the premises must be fitted with a gate or door capable of excluding persons from the interior of the premises, and the premises must be kept closed by means of any such gate or door at all times while the premises are closed to the public;*
 - (c) at each entrance to the premises there must be displayed, so as to be able to be read from outside the premises, a notice that complies with the requirements of this clause;*
 - (d) the proprietor of the premises, or some other adult person appointed by the proprietor for that purpose, must remain on or near the premises, and must be in charge of the premises, at all times while the premises are open to the public.*

- (2) A notice referred to in subclause (1) (c) must contain the following
*RESTRICTED PUBLICATIONS AREA
PERSONS UNDER 18 YEARS OF AGE MAY NOT ENTER*
words:
*MEMBERS OF THE PUBLIC ARE WARNED THAT SOME
MATERIAL DISPLAYED HEREIN MAY CAUSE OFFENCE*
- (3) The notice is to be printed in clearly legible letters at least 15 mm in height.

The application states it will operate within the above requirements. These requirements can be conditioned to any consent granted.

Disability Discrimination Act 1992

In considering whether to require a development to upgrade sanitary facilities for disabled access, Council should take into consideration the provisions of the Disability Discrimination Act 1992 (DDA). The DDA has been in effect since 1 March 1993.

The DDA prohibits discrimination against people with a disability or their associates in a range of areas including transport, education, employment, accommodation and premises to which the public is entitled to enter or use. The DDA is complaints-based (as opposed to compliance-based) legislation. The DDA contains intent and objectives but not the technical details of how to provide access for people with disabilities. The Building Code of Australia, however, is a comprehensive statement of the performance and technical requirement relevant to the design and construction of buildings.

The Disability Discrimination Commissioner has previously expressed a view that councils have a critical role to play in ensuring developments comply with the requirements of the DDA.

There are however, provisions within the DDA that do not require the provision of disabled facilities to be made to a building if this will cause major difficulties or excessive costs to a person or organisation. This is called “unjustifiable hardship.” The Disability Discrimination Act 1992, section 11, defines “unjustifiable hardship” as:

“Unjustifiable hardship for the purposes of this Act, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including:

- (a) the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; and*
- (b) the effect of the disability of a person concerned; and*
- (c) the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship; and*
- (d) in the case of the provision of services, or the making available of facilities—an action plan given to the Commission under section 64.”*

Accessibility

A disabled car park is provided close to the building and disabled access for patrons is provided to the front of the shop.

The building was approved in 1985. The shop currently has one uni-sex toilet located in the rear area of the shop for staff use. The existing sanitary facilities would not be compliant with the current Australian Standard for access and mobility (AS1428.1-2001). The provision of disabled toilet facilities was discussed with the applicant.

The applicant has argued that the existing toilet facilities should not be required to be upgraded, and has put forward the following argument:

- There are no works to be undertaken for the existing toilet facilities.
- The works being undertaken within the shop are only of a minor nature.

- The shop is not large enough to be required to provide toilet facilities for patrons under the Building Code of Australia (Part D3 and AS 1428.1).
- The shop will be owner/operated and is unlikely that any other persons would be employed.

In response to a report submitted to Council's Ordinary Meeting held on 28 February 2006 in relation to **Access for Disabled Persons: Existing Buildings** it was resolved as follows:

"that Council adopt a local policy, for all buildings captured under the provisions of Clause 94 of the EPAA Regulation, in regard to the provision of access and facilities for disabled persons that requires:

1. *The applicant to submit to council, upon lodgment and prior to determination of the Development Application, an access appraisal report, including detailed plans. The access appraisal report shall identify all areas of the development that require upgrading to comply with the Building Code of Australia and the measures proposed to achieve compliance. Detailed reasoning and justification shall be included in the report covering any areas of non-compliance of the proposal. In these cases involving areas of non-compliance the applicant should also address the provisions of the Disability Discrimination Act in their proposal.*
2. *Any proposal requesting council not to require upgrading to achieve total compliance with the Building Code of Australia is to be referred to councils Access committee for comment and then reported to councils Development Control Unit (DCU) for determination."*

The report notes that a concession is provided for existing buildings by clause 94 of the EP&A Regulation 2000 as follows:

"Clause 94 of the Regulation provides a concession, whereby buildings may be required to fully or only partially comply with the BCA. Clause 94 of the Environmental Planning and Assessment Regulation states:

- (1) *This clause applies to a development application for development comprising the **rebuilding, alteration, enlargement or extension of an existing building** where:*
 - (a) *the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, **or***
 - (b) *the measures contained in the building are inadequate:*
 - (i) *to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*
 - (ii) *to restrict the spread of fire from the building to other buildings nearby.*
- (2) *In determining a development application to which this clause applies, a consent authority is **to take into consideration** whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia."*

Clause 94 of the Regulation applies to a Development Application for the rebuilding, enlargement or extension of an existing building. The word “or” at the end of paragraph (a) clearly indicates that both sets of circumstances must be considered separately by council. Clause 94(2) requires council “to take into consideration” whether it would be appropriate to require the existing building to be brought into “total or partial conformity” with the BCA.”

Provision of disabled access and facilities is at all times a major consideration for the Council and where possible, applicants are encouraged to provide these facilities. New developments are required to provide disabled access and facilities in circumstances where the BCA requires compliance and where building alterations or extensions are proposed in accordance with Clause 94 of the Environmental Planning and Assessment Regulations.

The application states that the shop fit-out will not require any major physical works (i.e. removal of internal walls) to the shop including staff toilet facilities. Substantial alterations to the shop interior would be required to modify the existing staff facilities to meet disabled access requirements.

It is considered that in accordance with section 11 of the DDA that it would be unjustifiable for Council to require that the existing sanitary facilities be upgraded to comply with the Australian Standard given the nature of the proposed development. The operator is therefore accepting any liability for any future potential non compliance with the DDA.

Context and Setting

The shop is located within a commercial precinct. The products to be sold are regulated under Federal and State legislation

Site Design and Internal Layout

The shop is located in a existing building with 5 retail shops on the ground floor and 4 offices areas on the 1st level. The proposed shop is only premises in the building that has primary access to Kent Street.

The internal layout consist of an open area with an enclosed toilet and office area at the rear of the shop. These facilities are for the sole use by the shop operator.

The Suitability of Site for the Development

The shop is located within the existing commercial precinct of Tuncurry. The retail of classified publications, articles or films is controlled under Federal and State legislation. Providing the shop operator complies with the relevant legislation then the site is suitable for the type of retail activity.

Any Submissions Made in Accordance with the Act or Regulations

The application was advertised and notified in accordance with Council's Notification Policy and three (3) submissions were received. One (1) submission [building owner, 9-11 Manning Street Tuncurry] stated no objection to the proposal while two (2) submissions objected to the proposal for the following reasons:-

1. Out of character with surrounding business, [Kindermusik, Kip McGrath, Lifeline, Christian Bookshop, etc]. and family friendly village character.

Comment:

The shop is within Tuncurry shopping precinct and will undertake retail activities as permissible in the 3(a) Business zone. The objection relates to the type of product sold, and it is noted that the product is classified under the Publication Act and therefore legal to sell. It is further noted that other retail store(s) in Tuncurry sell publications classified under the same Act. Finally it is noted, none of the business mentioned above lodged a submission to the proposal.

2. "Children of owners and employees of existing business in the complex and children attending business in the locality would be exposed to this business activities and their clientele.....".

Comment:

The business and retail products are legal within NSW. The business cannot expose classified items within a public place or permit persons under 18 years of age in the shop. The objection indicates that the clientele are of dubious character. The proposal does not involve sexual services, and has 'normal' trading hours. It is difficult to argue that the proposed retailing of classified but legal products will corrupt our children, or increase the risk of dubious behaviour.

3. Hours of operation - late night trading, security issues.

Comment:

The proposed hours of operation are no different to existing 'normal' business hours for retail shops in Tuncurry.

The Public Interest

The public interest is served by assessing compliance with relevant legislation, plans, policies and guidelines. Public interest is also served by notifying the application in accordance with policy.

As such this application and assessment satisfies the public interest.

CONCLUSION:

The use of the shop for the retail sales of adult products is permissible. The proposal will not permit any classified material to be viewed from a public place or permit persons under the age of 18 within the premises.

The sale of classified publications is not new to the locality, newsagencies sell classified publications, and small retail stores have been known to sell adult novelty items.

The shop will be compatible in appearance to other retail stores in the locality, and providing the operator (and customers) comply with the requirements of the Publications Act 1995, then no character issues are raised.

The objectors concerns appear to relate to moral issues which are not matters for consideration under section 79C the EP&A Act 1979. Parents are responsible for children, with society providing a legal frame work to protect its citizens. In this instance the legal frame regulates this type of business but does not prohibit the business activity.

It is noted that the main entrance to the other shops within the building is via Manning Street, with the proposed Adult Retail shop entrance being on Kent Street.

As such, no objection is raised to the proposal.

RECOMMENDATION:

That Development Application 8/2010 for a Retail Adult Shop at shop 5/11 Manning Street Tuncurry [Lot 2/3 DP 338039] be approved with the following conditions.

RECOMMENDED CONDITIONS

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development must be in accordance with the stamped plans, the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. Compliance with the NSW Classification (Publications, Films and Computer Games) Enforcement Act 1995.
3. The following details are to be submitted to Council for approval prior to the commencement of operation of the store:
 - the premises must be so constructed that no part of the interior of the premises is visible to any person outside the premises, ie curtains or blind material to prevent view by persons outside the store;
 - the entrance to the premises must be fitted with a gate or door capable of excluding persons from the interior of the premises, and the premises must be kept closed by means of any such gate or door at all times while the premises are closed to the public;
 - at the entrance to the premises there must be displayed, so as to be able to be read from outside the premises, a notice containing the following:
 - ❖ RESTRICTED PUBLICATIONS AREA
 - ❖ PERSONS UNDER 18 YEARS OF AGE MAY NOT ENTER
 - ❖ MEMBERS OF THE PUBLIC ARE WARNED THAT SOME MATERIAL DISPLAYED HEREIN MAY CAUSE OFFENCE

The notice is to be printed in clearly legible letters at least 15mm in height.

 - the proprietor of the premises, or some other adult person appointed by the proprietor for that purpose, must remain on or near the premises, and must be in charge of the premises, at all times while the premises are open to the public.
4. The store's hours of operation shall be:
 - Sunday/Monday - Closed.*
 - Tuesday, Wednesday & Friday - 9.30am - 5.30pm.*
 - Thursday - 9.30am - 7.30pm.*
 - Saturday - 9.30am - 2.30pm.*

7 PES - List of Matters before the Land & Environment Court - October 2009

Index: Land & Environment Court Appeals - Development Applications
Author: Manager, Development Assessment - Wayne Burgess
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

At its meeting of 23 August 2005, Council resolved the following:

"... that Council be informed at each and every Council meeting of all applications to the Land & Environment Court".

SUMMARY OF RECOMMENDATION:

That the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Indicated in Annexure 'A'.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Indicated in Annexure 'A'.

LIST OF ANNEXURES:

A: List of matters currently before the Land & Environment Court

LIST OF ATTACHMENTS:

Nil

REPORT:

At its meeting of 23 August 2005, Council resolved the following:

"... that council be informed at each and every Council meeting of all applications to the Land & Environment Court".

Annexure "A" is a summary list of matters currently before the Land & Environment Court.

RECOMMENDATION:

That the information be noted.

8 PES - Consents Issued Under Delegated Authority - September 2009

Index: Development Consents Issued Under Delegated Authority
Author: Director Planning & Environmental Services - Glenn Handford
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Consents which have been issued for the month of September 2009 under authority delegated by Council on 14 June 1994 are contained in Annexure "A".

Should any Councillor have a query regarding the attached Annexure, please contact the Director Planning & Environmental Services, so that the appropriate documentation may be brought to the meeting for clarification.

SUMMARY OF RECOMMENDATION:

It is recommended that the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Consents issued for the month of September 2009

LIST OF ATTACHMENTS:

Nil

REPORT:

Consents which have been issued for the month of September 2009 under authority delegated by Council on 14 June 1994 are contained in Annexure "A".

Should any Councillor have a query regarding the attached Annexure, please contact the Director Planning & Environmental Services, so that the appropriate documentation may be brought to the meeting for clarification.

RECOMMENDATION:

It is recommended that the information be noted.

9 PES - Penalty Infringement Notices Issued - September 2009

Index: Law & Enforcement - Infringement Notices Issued

Author: Investigations and Regulatory Control Coordinator - Greg Pevitt

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

As resolved at Council's meeting on 28 March 2000, this report has now been expanded to include all fines issued.

SUMMARY OF RECOMMENDATION:

It is recommended that the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Ni

LIST OF ANNEXURES:

Nil

LIST OF ATTACHMENTS:

Nil

REPORT:

As resolved at Council's meeting on 28 March 2000, this report has now been expanded to include all fines issued. From 1 September 2009 to 30 September 2009, 51 penalty infringement notices were issued for the following reasons:

OFFENCE	FINE (\$)	TOTAL NO.
Park longer than permitted	\$84.00	12
Park on path / strip in built-up area	\$84.00	5
Stop in bus zone (School Zone) - Loss of 2 demerit points	\$253.00	1
Stop in parking area for disabled	\$422.00	1
Disobey 'No Standing / Parking' sign	\$84.00	2
Disobey Parking sign "School Zone"	\$141.00	3
Disobey "No Stopping" sign "School Zone"	\$253.00	7

Disobey 'No Stopping' sign	\$197.00	1
Fail to comply with notice in public place	\$110.00	3
Not park wholly within parking bays	\$84.00	1
Not parallel parked in direction of travel	\$141.00	3
Litter from motor vehicle	\$200.00	2
Stop in Loading Zone	\$141.00	1
Development carried out without consent	\$750.00	4
Animal not registered	\$165.00	2
Animal not permanently identified	\$165.00	1
Leave animal in public place	\$220.00	2

RECOMMENDATION:

It is recommended that the information be noted.

10 PES - Minutes of the Port Stephens Estuary Management Committee - 26 August 2009

Index: NS-EST-PS-MGT
Author: Project Co-ordinator - Prudence Tucker
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

This report presents the minutes from the Port Stephens Estuary Management Committee meeting held on 26 August 2009.

SUMMARY OF RECOMMENDATION:

That the information be noted

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Minutes of the Port Stephens Estuary Management Committee - 26 August 2009

LIST OF ATTACHMENTS:

Nil

REPORT:

A copy of the minutes from the Port Stephens Estuary Management Committee of 26 August 2009 is included in Annexure A.

RECOMMENDATION:

That the minutes be noted.

11 PES - Minutes of the Wallis and Smiths Coast and Estuary Management Committee - 5 August 2009

Index: NS-EST-W/L-S/L CTTE
NS-EST-CCT-Meetings
Author: Project Co-ordinator - Prudence Tucker
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

This report presents the minutes from the Wallis and Smiths Coast and Estuary Management Committee held on 5 August 2009.

SUMMARY OF RECOMMENDATION:

That the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Minutes from the Wallis and Smiths Coast and Estuary Management Committee - 5 August 2009

LIST OF ATTACHMENTS:

Nil

REPORT:

A copy of the minutes from the Wallis and Smiths Coast and Estuary Management Committee of 5 August 2009 are included in Annexure A. A copy of the minute attachments is available for viewing with the Director Planning & Environmental Services.

RECOMMENDATION:

That the minutes be noted.

DIRECTOR ENGINEERING SERVICES

12 ES - Dedication of Public Road - The Lakes Way and Sweetpea Road, Forster

Index: Roads - Land Acquisition for Roads
Author: Design Engineer - Scott Nicholson
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

The State Property Authority on behalf of MidCoast County Council have offered two (2) lots (Lot 231 DP 1062852 on The Lakes Way, Forster and Lot 232 DP 1062852 on Sweetpea Road, Forster) to be dedicated to Council as public road.

SUMMARY OF RECOMMENDATION:

It is recommended that:

1. Council accept dedication of Lot 231 DP 1062852 on The Lakes Way, Forster and Lot 232 DP 1062852 on Sweetpea Road, Forster as public road.
2. Approval be given to the Common Seal of Council being affixed to all necessary transfers and documents.
3. The State Property Authority be advised accordingly.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Letter from the State Property Authority (DW Doc 1710227)

LIST OF ATTACHMENTS:

Nil

REPORT:

Council has received correspondence from the State Property Authority acting on behalf of the MidCoast County Council regarding dedications of two (2) parcels of land to Council as public road.

The proposed dedications are Lot 231 DP 1062852 on The Lakes Way, Forster which was required for the installation of a water main and Lot 232 DP 1062852 on Sweetpea Road, Forster which was required for road widening to improve access to the Forster Sewage Treatment Plant (see Annexure A).

Both of the proposed dedication lots adjoin Council owned and maintained roads within dedicated road reservations therefore, it is reasonable for Council to accept dedication of these lots as public road.

The State Property Authority has advised that the dedications will be completed at no cost to Council.

For the dedication process to proceed, Council is required to formally accept the proposal from MidCoast County Council to dedicate these two (2) lots as public road.

RECOMMENDATION:

It is recommended that:

1. Council accept dedication of Lot 231 DP 1062852 on The Lakes Way, Forster and Lot 232 DP 1062852 on Sweetpea Road, Forster as public road.
2. Approval be given to the Common Seal of Council being affixed to all necessary transfers and documents.
3. The State Property Authority be advised accordingly.

13 ES - Cattle Grid Construction - Crown Road Reserve off Crawford River Road, Bulahdelah

Index: Roads - Public Gates, Grids

Author: Senior Engineers Development Officer - Dean Hartmann

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

In conjunction with DA 107/2009, a condition of development consent requires construction of a 220m length of crown road reserve. The developer seeks consent for the erection of a cattle grid within the section to be constructed.

SUMMARY OF RECOMMENDATION:

That Council grants permission for the erection of a cattle grid on the newly constructed road.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

Nil

LIST OF ATTACHMENTS:

A: Locality Plan

B: Civil Detail Plan

REPORT:

A condition of consent for creation of a two (2) lot rural subdivision requires construction of an unformed crown road reserve that intersects with Crawford River Road. The developer has lodged an application for erection of a cattle grid on the boundary line of the subject land which is located within the section to be constructed. The application complies with Council's requirements/policy in that:

1. The road reserve is not fenced within the subject property.
 2. The road reserve has a vehicle count of less than ten (10) vehicles per day.
 3. The developer has lodged a written application accompanied by the required fee.
-

Should Council resolve to support the application, protocol requires that an advertisement be placed in the local newspapers inviting interested persons to lodge objections in writing within 28 days of the advertisement. If objections are received, a further report shall be prepared for Council for determination.

RECOMMENDATION:

That Council grants permission for the erection of a cattle grid on the newly constructed road.

DIRECTOR CORPORATE & COMMUNITY SERVICES

14 CCS - Disclosure of Interest Returns - Councillors & Designated Persons

Index: Councillors / Staff Annual Disclosures of Interest Register

Author: Manager Corporate Governance - Phil Brennan

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

In accordance with Section 450A (2) (b) of the Local Government Act 1993 the completed Disclosure of Interest Returns of Councillors and Designated Persons are tabled at the meeting.

SUMMARY OF RECOMMENDATION:

That the tabling of the register of returns disclosing interests of councillors and designated persons for the period ending 30 June 2009 be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Tabling of the register of returns ensures that Council meets its statutory obligations under the Local Government Act 1993.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

Nil.

REPORT:

Section 449 of the Local Government Act 1993 requires Councillors and designated staff to make written returns disclosing specified interests when they attain their positions and every year while holding these positions. Returns for the year ended 30 June 2009 were required to be lodged with the General Manager by 30 September 2009.

Section 450A requires that a register of these returns is to be kept and tabled at the first meeting of Council after the last day for lodgement, in this instance 30 September 2009.

It is confirmed that all returns from Councillors and designated staff were received prior to the last day for lodgement. The register of returns will be tabled at the meeting.

RECOMMENDATION:

That the tabling of the register of returns disclosing interests of councillors and designated persons for the period ending 30 June 2009 be noted.

15 CCS - Promoting Better Practice Review Action Plan Update

Index: Governance - Local Government Reform Program

Author: Manager Corporate Governance - Phil Brennan

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

This report provides an update to Council on action taken in implementing recommendations from the Department of Local Government's Promoting Better Practice Review Program Report.

SUMMARY OF RECOMMENDATION:

That the update be noted and that a copy of the Action Plan be forwarded to the Department of Local Government.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

A: Review Action Plan - 30 September 2009

LIST OF ATTACHMENTS:

Nil.

REPORT:

As Council is aware the Department of Local Government conducted a Promoting Better Practice Review on Council during 2008. Council received and considered the Final Report at its March 2009 Ordinary meeting and adopted an Action Plan addressing the recommendations arising from that report. This Action Plan was forwarded to the Department of Local Government.

At the time of forwarding the Final Report, the Department requested that Council provide it with a report on progress within six months of the date of tabling. A review of progress has been conducted and responses are recorded in the column titled "Progress Report" in the Annexure.

Progress has generally been satisfactory with the major strategic issues of integrated planning being addressed through the engagement of Morrison Low to prepare a Long Term Financial Plan, a focus by staff on developing Asset Management Plans utilising the IPWEA NAMS Plus framework and the engagement of Blackadder & Associates to conduct the community engagement and prepare the Community Strategic Plan for consideration by Council.

Council has also progressed with the appointment of its Internal Auditor and the establishment and operation of the Audit Committee and Risk Management Committee. There is a focus on developing Council's Risk Management Framework including the education of staff, development of risk matrices and other templates to assist in conducting risk assessments, development of Council's Risk Management Plan and Risk Register.

There has been some slippage in the timeframes initially envisaged for the development of some policies. This has resulted from resource shortages and other organisational priorities which have taken precedence, including responding to Council's current budgetary situation. At this stage it is intended that the development of these policies will be completed prior to the end of this financial year.

RECOMMENDATION:

That the update be noted and that a copy of the Action Plan be forwarded to the Department of Local Government.

16 CCS - Criminal Record Checks

Index: Community Services - HACC and Disability Services

Author: HACC & Disability Services Coordinator - Liz Green

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

The NSW Department of Ageing, Disability and Home Care (DADHC) have changed the way that Criminal Record Checks are completed for all employees and volunteers of funded services, such as Council's Home and Community Care (HACC) and Disability Services. Employees and volunteers must undergo a National Criminal History Record Check before they commence work with vulnerable people, such as adults and children with a disability and frail older people. The new system comes into place on 1 October 2009. In order to meet funding body requirements, it is recommended that Council enter into a contract with NSW Businesslink (DADHC's corporate services provider) to conduct these checks.

SUMMARY OF RECOMMENDATION:

That Council's Common Seal be affixed to any documentation as necessary relating to the Contractual Agreement for NSW Businesslink to conduct criminal record checks for Council's HACC and Disability Services.

FINANCIAL/RESOURCE IMPLICATIONS:

Council's HACC and Disability Services will be required to pay \$37 for each employee and \$15 for each volunteer for a National Criminal History Record Check to be completed.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

The contract will be for the period 1 October 2009 to 13 July 2011.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

Nil.

REPORT:

The NSW Department of Ageing, Disability and Home Care (DADHC) have changed the way that Criminal Record Checks are completed for all employees and volunteers of funded services, such as Council's Home and Community Care (HACC) and Disability Services. Previously, funded services engaged DADHC to complete all Criminal Record Checks for new employees and volunteers at no cost. There were two main disadvantages to this system: the Criminal Record Checks were only conducted in the state of New South Wales and there was a lengthy delay in receiving the results (up to two months at times). This impacted on the ability to promptly engage the new employee or volunteer in unsupervised direct work with clients, until a satisfactory result was received. It is a requirement for all funded services to have these checks completed, as employees and volunteers work with vulnerable people, including adults and children with a disability and frail older people.

From 1 October 2009, all new employees and volunteers must undergo a National Criminal History Record Check before they commence work with adults and children with a disability and frail older people, the main client groups for Council's HACC and Disability Services. The major advantage of this new comprehensive system is that the Criminal History Record Checks will be conducted throughout all the states and territories of Australia. Another advantage is that approximately 75% of all results will be received within 24 hours and the remaining results will be received within one to ten days.

IMPLICATIONS

NSW Businesslink (DADHC's corporate services provider) have been recommended as a reasonably priced option to meet the funding body requirements for Criminal Record Checks. Council's HACC and Disability Services will be required to pay \$37 for each employee and \$15 for each volunteer for a National Criminal History Record Check to be completed through NSW Businesslink. In comparison, Criminal Record Checks conducted at local police stations will cost \$52.

New employees and volunteers are required to complete an application form, provide informed consent to obtain personal information and provide identification to the supervisor. The HACC and Disability Services Coordinator will be the officer who will receive the results of each Criminal Record Check. All information will be held in strict confidence and dealt with in accordance with relevant record keeping legislation.

In order to meet funding body requirements, it is recommended that Council enter into a contract with NSW Businesslink to conduct these National Criminal History Record Checks.

RECOMMENDATION:

That Council's Common Seal be affixed to any documentation as necessary relating to the Contractual Agreement for NSW Businesslink to conduct criminal record checks for Council's HACC and Disability Services.

17 CCS - Investment Report September 2009

Index: Investments

Author: Revenue Accountant - Colin McKillop-Davies

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Due to the rescheduling of the October Ordinary Meeting, the September 2009 investment report will be tabled at the meeting.

SUMMARY OF RECOMMENDATION:

That the information be received and noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A: Report of Investments as at 30 September 2009. (To be tabled at meeting)
- B: Monthly Interest Comparison (To be tabled at meeting)

LIST OF ATTACHMENTS:

- A: Nil
-

REPORT:

Due to the rescheduling of the October Ordinary Meeting, data to compile the September 2009 investment report was not available and as such the actual report will be tabled at the meeting.

RECOMMENDATION:

That the information be received and noted.

18 CCS - Minutes of Commercial Enterprises Committee Meeting held 28 September 2009

Index: Council Meetings Commercial
Author: Manager, Administrative Services - John Dougherty
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

The Minutes of the Commercial Enterprises Committee meeting held on 28 September 2009 are submitted for adoption.

SUMMARY OF RECOMMENDATION:

1. That the minutes of the Commercial Enterprises Committee meeting held on 28 September 2009 be noted.
2. That the recommendations from the Commercial Enterprises Committee meeting held on 28 September 2009 be adopted:

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A: Minutes of the Commercial Enterprises Committee meeting held on 28 September 2009.

LIST OF ATTACHMENTS:

Nil.

REPORT:

The Minutes of the Commercial Enterprises Committee meeting held on 28 September 2009 are attached as Annexure 'A' and are submitted for adoption.

RECOMMENDATION:

1. That the minutes of the Commercial Enterprises Committee meeting held on 28 September 2009 be noted.
2. That the following recommendations from the Commercial Enterprises Committee meeting held on 28 September 2009 be adopted:

Subject: Draft Business Development Strategy - Hawks Nest Beach Caravan Park

011 RESOLVED:

1. That the Committee recommends that the Draft Business Development Strategy in respect of Hawks Nest Beach Caravan Park and its recommendations be endorsed.
2. That a further report be considered in respect of the Draft Plan of Management.

Subject: Draft Business Development Strategy - Seal Rocks Camping Reserve

012 RESOLVED:

1. That the Committee recommends that the Draft Business Development Strategy in respect of Seal Rocks Camping Reserve and its recommendations be endorsed, subject to the variations as tabled during the meeting. The variations required additional cabins, communal and recreational facilities along the elevated western area previously dedicated to holiday vans, as well as that the holiday vans being grouped towards the rear and their number reduced to 30.
2. That a further report be considered in respect of the Draft Plan of Management.

Subject: Draft Business Development Strategy - Jimmys Beach Caravan Park

013 RESOLVED:

1. That the Committee recommends that the Draft Business Development Strategy in respect of Jimmys Beach Caravan Park and its recommendations be endorsed.
2. That a further report be considered in respect of the Draft Plan of Management.
3. That a further report be presented to consider strategies required in order to reduce the number of holiday vans as outlined in this report.

19 CCS - Aboriginal Liaison Committee

Index: Aboriginal Liaison Committee
Author: Community Services Coordinator - Amanda Ellis
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Great Lakes Council's Aboriginal Liaison Committee met on 11 August 2009. The meeting minutes are attached for Council's noting. Particular attention should be given to the Committee's recommendation that several working groups be established to progress Committee projects, and the Committee's recommendation to increase its core membership. More detailed information regarding these recommendations is available in the body of the report.

SUMMARY OF RECOMMENDATION:

1. That the minutes of the Aboriginal Liaison Committee held on 11 August 2009 minutes be noted.
2. That the core membership of the Aboriginal Liaison Committee be increased from 8 to 10 members, with the additional members nominated by the Forster Local Aboriginal Land Council and the Karuah Aboriginal Land Council. Further, that the nominated representatives be reported to Council for endorsement and that the Committee Terms of Reference be altered accordingly.
3. That a Working Party be established to progress the planning for the design and installation of welcome signs acknowledging the area's traditional custodians at the entrances to the Local Government Area.
4. That a Working Party be established to investigate opportunities for Aboriginal employment at Great Lakes Council and report back with recommendations.

FINANCIAL/RESOURCE IMPLICATIONS:

The Aboriginal Liaison Committee has a small operating budget which will be utilised to design and install the welcome signs. A further report to Council will make recommendations as to how that operating budget should be spent.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Aboriginal Liaison Committee Meeting Minutes August 2009

LIST OF ATTACHMENTS:

Nil

REPORT:

Great Lakes Council's Aboriginal Liaison Committee met for the second time this year on 11 August 2009. The main topics of discussion included: the installation of welcome signs acknowledging the area's traditional custodians at the entrances to the Local Government Area; investigating opportunities for the employment of Aboriginal people as Council staff; and increasing the core membership of the Aboriginal Liaison Committee.

Welcome Signs

Council's Community Services Coordinator, Amanda Ellis, was asked to research information in relation to the installation of welcome signs acknowledging the area's traditional custodians. Five Councils on the Mid-North and North Coast of NSW were contacted and the information gathered was reported back to the Committee. The information presented to the Committee was aimed at providing a starting point and included details on placement and design and the provision of quotes. The Committee now recommends that a working party is established to determine the exact design and placement of the signs and report back to the Committee. Membership of the working party will include: Councillor Linda Gill, Dave Feeney (CEO Karuah Aboriginal Land Council), and Tim Kelly (CEO Forster Local Aboriginal Land Council). Consultation will be undertaken with other members of the community as required.

Aboriginal Employment

Council's Community Services Coordinator, Amanda Ellis, was asked to research opportunities for the employment of Aboriginal people as Council staff. Five Councils on the Mid-North and North Coast were contacted to determine current practice and potential directions for this project. Based on the information presented, it is recommended that a working party be established to investigate opportunities in relation to Aboriginal Employment and report back to the Committee. It was agreed that the focus of the project is to improve the opportunity for Aboriginal people to gain employment within the current staff structure, rather than creating additional positions or Aboriginal specific positions. Membership of the working party will include: Councillor John Weate, Graeme Frappell (Manager Human Resources), Dave Feeney (CEO Karuah Aboriginal Land Council) and Tim Kelly (CEO Forster Aboriginal Land Council). Consultation will be undertaken with other members of the community as required.

Aboriginal Liaison Committee Membership

It is proposed that the core membership of the Aboriginal Liaison Committee be increased from 8 members to 10 members in order to provide for additional representation on the committee by the Aboriginal community. Membership will then comprise 4 Councillors and 6 Aboriginal people. In addition to their Chief Executive Officers, both Aboriginal Land Councils will nominate two representatives to become members of the Committee at the November meeting.

RECOMMENDATION:

1. That the minutes of the Aboriginal Liaison Committee held on 11 August 2009 be noted.
2. That the core membership of the Aboriginal Liaison Committee be increased from 8 to 10 members, with the additional members nominated by the Forster Local Aboriginal Land Council and the Karuah Aboriginal Land Council. Further, that the nominated representatives be reported to Council for endorsement and that the Committee Terms of Reference be altered accordingly.
3. That a Working Party be established to progress the planning for the design and installation of welcome signs acknowledging the area's traditional custodians at the entrances to the Local Government Area.
4. That a Working Party be established to investigate opportunities for Aboriginal employment at Great Lakes Council and report back with recommendations.

20 CCS - Great Lakes Safe Communities/Crime Prevention Taskforce

Index: S355 Committee - Great Lakes Safe Communities/Crime Prevention
Author: Community Services Coordinator - Amanda Ellis
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Minutes of the meetings of the Crime Prevention Taskforce held on 3 June 2009, 1 July 2009 and 5 August 2009 are attached for Council's noting. A brief update regarding the Safeguard Your Home Project administered by the Crime Prevention Taskforce is provided for the information of Council.

SUMMARY OF RECOMMENDATION:

1. That the recommendations of the Crime Prevention Taskforce identified in the attached meeting minutes be noted.
2. That the Safeguard Your Home Project update be noted.
3. That thanks be extended to the members of the Crime Prevention Taskforce for their efforts in administering the Safeguard Your Home Project.

FINANCIAL/RESOURCE IMPLICATIONS:

The Safeguard Your Home Project is fully funded through the NSW Department of Justice and Attorney General. \$50 000 has been provided to Great Lakes Council to administer the Project in Forster Tuncurry in its first year. A further \$100 000 may be available to administer the project in years two and three depending on the success of the project in its first year.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Meeting Minutes June 2009
- B: Meeting Minutes July 2009
- C: Meeting Minutes August 2009

LIST OF ATTACHMENTS:

Nil

REPORT:

The minutes of the Crime Prevention Taskforce meetings held on 3 June 2009, 1 July 2009, and 5 August 2009 are attached for Council's endorsement. Of particular note are the following initiatives:

Lock it or Lose it Signs

The Crime Prevention Taskforce, working in partnership with NSW Police, has organised for five "Lock it or Lose it" signs to be installed in several areas throughout Forster Tuncurry. The Local Area Command identified a number of car park areas which are regularly targeted by thieves and would benefit from additional signage reminding its patrons to secure their belongings before leaving their vehicles. Each of the signs will display a sentence which attributes the installation of the signs to the Crime Prevention Taskforce.

Safeguard Your Home Project

The Safeguard Your Home Project was launched on 22 September 2009 with approximately 50 residents in attendance. Funded through the NSW Department of Justice and Attorney General, the Project is aimed at reducing the incidence of the target offence Break and Enter (Dwelling) in the Forster Tuncurry area. There are several components to the project including: the provision of free home security audits; the availability of property marking kits for residents to loan from Council; subsidised home security equipment (including its installation); a free Home Security Kit with information on how to improve home security and reduce the risk that homes will be targeted by thieves; and a Home Security Forum which will take place early in 2010. Great Lakes Council has partnered with FT&T Locksmiths, Coastal Technical and Electrical, SNP Security and the Forster Neighbourhood Centre to administer the project. Members of the Crime Prevention Taskforce worked tirelessly in the lead up to the launch and should be commended for their efforts.

RECOMMENDATION:

1. That the recommendations of the Crime Prevention Taskforce identified in the attached meeting minutes be noted.
2. That the Safeguard Your Home Project update be noted.
3. That thanks be extended to the members of the Crime Prevention Taskforce for their efforts in administering the Safeguard Your Home Project.

21 CCS - Access Committee Report

Index: Great Lakes Access Committee
Author: Access Committee Secretary - Dianne Denton
Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

Minutes of meetings of Great Lakes Council Access Committee held 6 July, 3 August, 7 September 2009.

SUMMARY OF RECOMMENDATION:

That the information be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Minutes of meeting for Great Lakes Council Access Committee held Monday 6 July.
- B: Minutes of meeting for Great Lakes Council Access Committee held Monday 3 August.
- C: Minutes of meeting for Great Lakes Council Access Committee held Monday 7 September.

LIST OF ATTACHMENTS:

Nil

REPORT:

Attached for the information of Council are the Minutes of the Great Lakes Council Access Committee meetings held on Monday 6 July, Monday 3 August, Monday 3 September 2009. It can be seen that there are a wide range of issues under discussion and that the Committee is very active in its role of advocating for the wider community.

It should be noted that the Access Committee have requested that Councillor Roberts raise with Council, the unresolved issue of the 'raised' footpath hazard outside 'Yum Yums Bakery', Head Street Carpark, Forster - a matter which has been ongoing for a number of years.

RECOMMENDATION:

That the information be noted.

22 CCS - List of Outstanding Reports

Index: Council Meetings

Author: Director Corporate & Community Services - Steve Embry

Ordinary Meeting: 13 October 2009

SUMMARY OF REPORT:

A current list of all outstanding reports will be distributed to Councillors during the meeting. The report will also detail the current status of each item.

SUMMARY OF RECOMMENDATION:

Submitted for Council's information/consideration.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

Nil.

REPORT:

A current list of all outstanding reports will be distributed to Councillors during the meeting. The report will also detail the current status of each item.

RECOMMENDATION:

Submitted for Council's information/consideration.

Keith O'Leary
General Manager
