



## NOTICE OF MEETING

Notice is hereby given that a meeting of the

# **DEVELOPMENT CONTROL UNIT**

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

**8 OCTOBER 2009 AT 2PM**

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

1. Apologies
2. Declarations of Pecuniary & Non-Pecuniary Conflicts of Interest
3. Confirmation of the Minutes from previously held meetings:  
*DCU* 1 October 2009
4. Consideration of Officers' Reports:  
Director Planning & Environmental Services
5. Late Business
6. Close of Meeting

\* **NB** If a Councillor wants to call in any Application for determination by Full Council, they must notify the General Manager's Secretary of the Item by 12.00 noon on Tuesday, 6 October 2009.

**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?

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**CONSIDERATION OF OFFICERS' REPORTS:**

**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

**1 PES - Proposed Dwelling - DA68/2010 - 51 Admiralty Avenue, Tea Gardens**

**Index: DA68/2010 PK 23818**  
**Author: District Building Surveyor – Nick Green**  
**DCU Meeting: 8 October 2009**

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**DETAILS:**

Date Received: 10 August 2009

Applicant: Clarendon Homes

Owner: Mr T Heron

Land: Lot 4 DP 285432, 51 Admiralty Avenue, Tea Gardens

Area: 593m<sup>2</sup>

Property Key: 23818

Zoning: 2(f) Mixed Residential - Commercial, GLLEP 1996

**SUMMARY OF REPORT:**

- Application received to erect a single storey dwelling.
- Council's draft Climate Change policy requires that the floor level be 400mm (3.1mAHD) higher than the proposed level.
- The applicant has made a submission indicating that they would like an exemption to the Draft Climate Change policy based on the potential impacts to the streetscape and adjoining development and the owner's ability to use the dwelling.
- Consideration has been given to the streetscape and the increased height is likely to have an adverse impact.

**SUMMARY OF RECOMMENDATION:**

The application be approved subject to conditions including the requirement of a 2.80m AHD floor level as a concession in terms of infill development.

**FINANCIAL/RESOURCE IMPLICATIONS:**

The application may be appealed in the Land and Environment Court and there may be a cost associated with any appeal.

**POLICY IMPLICATIONS:**

Nil

**LEGAL IMPLICATIONS:**

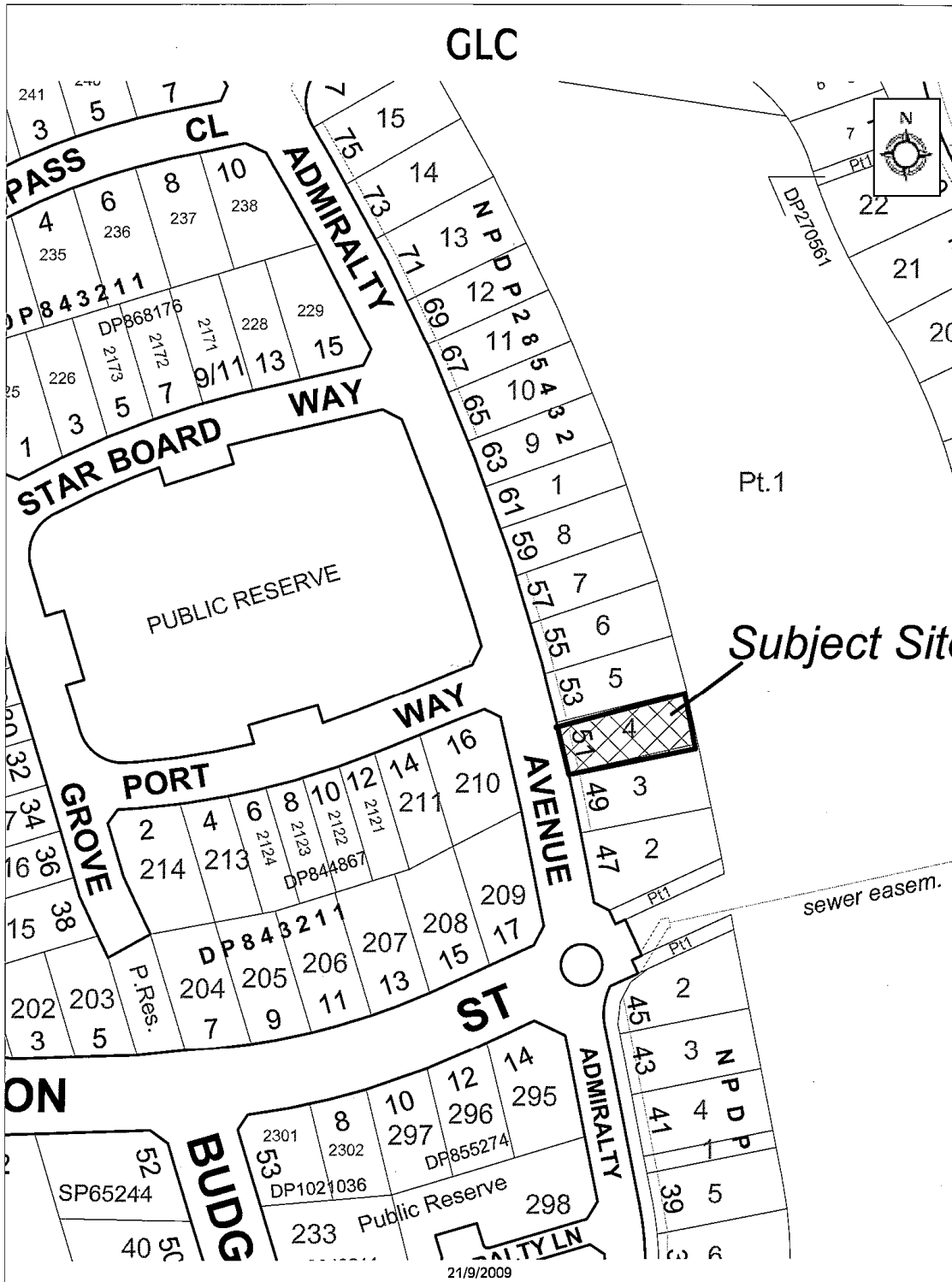
Any decision may be appealed in the Land and Environment Court.

**LIST OF ANNEXURES:**

A: A copy of the plans and elevations

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**SUBJECT SITE AND LOCALITY:**



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## **PROPOSAL:**

The application proposes to erect a single storey brick veneer dwelling. The proposed floor level is RL 2.71m AHD for the habitable section of the dwelling and RL 2.635m AHD for the non habitable sections of the building. Side boundary setback is compliant with the requirements of the Building Code of Australia and considered reasonable in terms of the character of the area. A copy of the plans and elevations are contained in Annexure A.

## **SITE DESCRIPTION:**

The front of the site is located on the eastern side of Admiralty Avenue, Tea Gardens with the back of the allotment having a frontage to a water body which is part of the Myall Quays water system. The site is substantially flat but does fall slightly from the front to the rear. Approximately 5.0m from the back of the site levels fall from RL 2.2m AHD to approximately RL 1.80m AHD. The site is therefore affected by the 1% flood.

## **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 2(f) Mixed Residential-Commercial under GLLEP-1996. Single dwellings are permissible with consent. Council, however, in determining the development application, must give consideration to the objectives of the zone.

Development within the zone must be consistent with the following objectives:

- (a) Objective (a) to enable mixed development comprised of accommodation for tourists and permanent residents generally not exceeding two storeys in height; and
- (b) Objective (b) to provide for recreational, retail and commercial uses and a limited range of other uses which:
  - (i) are complementary with a residential environment; and
  - (ii) are unlikely to place demands on services beyond the level reasonably required for residential uses.

It is considered that the proposal would comply with the objectives of the zone.

### ***State Environmental Planning Policy No 71(Coastal Protection)***

The site is located within an area known as a "Sensitive Coastal Location" under SEPP 71.

Having reviewed the matters for consideration listed within clause 8, it is thought that the following must be given due consideration.

- the suitability of development given its type and its relationship with the surrounding area,
- the likely impact of coastal processes and coastal hazards on development,
- to encourage a strategic approach to coastal management

Council has recently adopted a draft policy dealing with the likely impact of climate change. Among other matters are concerns regarding the increased frequency that significant climatic events may occur and their severity.

### **NSW Coastal Policy 1997**

The 1997 NSW Coastal Policy is a Government Policy, which is a prescribed matter pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. This requires Council to consider the relevant strategic actions of the policy when assessing development applications. It is considered that the proposed development raises issues in terms of objective 2.1.3 of the Policy. That is, "Physical and ecological processes and hazards will be assessed when considering development proposals."

Flooding and climate change must be taken into account and are considered later within this report.

### **Coastal Design Guidelines for NSW**

The proposal is consistent with the Coastal Design Guidelines document

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

#### ***Flooding***

The site is affected by the 1% flood in Tea Gardens.

Site levels vary from RL2.64m AHD down to RL1.78m AHD toward the rear of the property along the southern boundary. There is a retaining wall near the rear of the site which is 1.80 AHD at its highest point and approximately 1.05m AHD at its toe.

The dwelling proposes habitable floor levels at RL2.71m, AHD 0.11m above the requirement of Council's flood policy RL2.6m AHD.

#### ***Draft Climate Change Policy***

The Application was referred to Council's Engineering Division and the following comment was received:

*The major portion of the development lot is above the current 1% flood height of RL 2.1m. AHD, except for a 5m wide strip adjacent to the existing water body at the rear of the lot. Site levels vary between RL 2.64m and 1.78m at the rear boundary line.*

*Council adopted a draft policy on climate change at its meeting dated 21/10/08. For infill development such as this, floor levels be raised to 500mm above the 1% flood level with allowance for climate change to the year 2060 (10mm linear increase per annum) unless such house raising will have an adverse impact on access, neighbouring properties or the surrounding streetscape. Accordingly the habitable floor level should be raised to RL 3.1m AHD. This strategy has no adverse impact on access, however the issues of impact on neighbouring properties and the streetscape shall be addressed by Council's District Building Surveyor.*

Dwellings have generally been approved in Admiralty Avenue with a minimum habitable floor level of 2.6m AHD to comply with the requirements of Council's flood policy. Many of the nearby dwellings were approved prior to an AHD floor level survey being required but were generally 300mm above the finished ground level. The adjoining properties are likely to have a finished floor level of 2.7m AHD. A condition requesting a habitable floor level of RL 3.1m AHD, approximately 0.5m above the level of other dwellings, has the potential to make this residential building appear incongruous with the existing streetscape along Admiralty Avenue.

However, it is considered that a gradual rise from existing residential development to the subject site would be imperceptible, not appear out of place and be more consistent with Council's draft Climate Change policy. It will therefore be recommended that the habitable floor level of the building is raised to RL 2.8m AHD which is approximately 100mm higher than the adjoining properties.

### ***Context and setting***

It is considered that the proposed dwelling would appear out of place in terms of streetscape where a floor level of RL 3.1m AHD is required. However, a gradual rise along the street to provide a floor level of RL 2.8m AHD is considered to be reasonable. This level achieves a floor level more consistent with Council's draft policy while reducing impact on a streetscape that is relatively new (13 years) with only 10 – 15% of sites remaining vacant.

### ***Privacy***

The proposal as it stands is unlikely to result in any significant impacts in terms of loss of privacy to adjoining properties. If the floor level was raised by 400mm privacy issues may result as the greater floor level would allow the occupants to look over the side boundary fences. A raise of floor level by 100mm as recommended would not result in additional privacy impacts.

### ***Any Submissions Made in Accordance with the Act or Regulations***

The application was not required to be notified under Council's Policy.

The applicant has provided a submission indicating that the requirement to raise the building to comply with Council's draft policy would have a negative impact on the existing streetscape. The applicant requests the levels required by Council's draft Climate Change policy not be imposed upon the dwelling. The applicant is also concerned that a floor level raise would create privacy impacts to the adjoining properties. Copies of the submissions are provided on file for viewing.

### **CONCLUSION:**

It is considered that the subject building can be asked to go part way toward achieving the combined requirements of Council's flood policy and draft Climate Change policy without unduly affecting the existing streetscape along Admiralty Avenue.

### **RECOMMENDATION:**

It is recommended that Development Application No 68/2010 for the erection of a single storey dwelling at Lot 4 DP285432, No 51 Admiralty Avenue, Tea Gardens be approved subject to the following conditions including condition No 15 requiring a habitable floor level of RL 2.8m AHD.

1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
2. A Certificate of Compliance being received from MidCoast Water prior to the issue of any Construction Certificate, stating that satisfactory arrangements have been made for the provision of water supply and sewerage to the development.

### **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:**

3. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia, at not less than the following stages prior to proceeding to the subsequent stages of construction:

- a) Pier holes before they are filled with concrete.
  - b) Steel reinforcement.
  - c) Framework including floor, wall and roof framing prior to fixing of internal lining.
  - d) Stormwater drains.
  - e) When drainage lines are laid in position and prior to covering in.
  - f) Wet area flashing prior to covering in.
  - g) Final.
4. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
  5. Development must be completed in accordance with Basix Certificate No 256672S unless otherwise amended prior to the issue of a final Occupation Certificate.
  6. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
  7. Submission of a Damage Bond Application Form and payment of a bond in the amount of \$1,110.00, payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent. The bond shall be paid to Council prior to the issue of any Construction Certificate that may be issued for any component of the development.

Note: The bond will be considered for refund by the Engineering Services Division when an application for occupancy of the development or release of subdivision is lodged.

A fee of \$110.00 will be deducted from the bond to cover administration costs.

8. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the principal certifying authority that they have complied with the applicable requirements of Part 6.
9. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a Construction Certificate. The plans shall detail:
  - a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
  - b) Footings of the proposed structure.
  - c) Structural steel beams/columns.

Where it is proposed to use driven timber piles as part of any building footing system, the following certification from a professional engineer shall be provided prior to a footing inspection:

- (i) The durability class (and/or chemical treatment grade) of all piles used within the footing system; and
- (ii) That the driven piles have achieved the required bearing capacity.

10. Retaining walls or other approved methods of preventing movement of the soil must be provided if the soil conditions require it and adequate provisions made for drainage. Where retaining walls exceed one (1) metre in height, Engineer's details must be submitted to and approved by the principal certifying authority.
11. Toilet facilities are to be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site:
  - a) Each toilet provided must be a standard flushing toilet and must be connected to MidCoast Water's sewer; and
  - b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
12. The development is not to be used or occupied until it is completed in accordance with the approved plans and conditions of development consent.
13. Roof material shall be of a subdued low-reflective colour installed in accordance with the manufacturer's details. The colour of the roofing material is to be approved by Council prior to the issue of any Construction Certificate (unpainted metal, zincalume, white or off-white materials are not acceptable).
14. The developer submitting a Driveway Application to Great Lakes Council prior to the issue of a Construction Certificate.

All work is to be at the developer's expense and completed in accordance with the Driveway Levels issued by Great Lakes Council, and the following:

- a) Driveways being constructed in concrete over the footpath, at right angles to the kerb and gutter.
  - b) Footpath crossings shall be a minimum of 3.1m wide and located a minimum of 1m from the side boundaries.
  - c) Driveways to meet Great Lakes Council standards issued prior to release of the Damage Bond.
15. The finished floor level of the dwelling shall be RL 2.80m AHD and shall be verified by the submission of a surveyor's report to the principal certifying authority prior to pouring of concrete.
  16. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - a) stating that unauthorised entry to the work site is prohibited; and
    - b) showing the name, address and telephone number of the principal certifying authority for the work; and
    - c) showing the name of the principal contractor and a telephone number at which that person may be contacted outside of working hours.

Any such sign is to be removed when the work has been completed.

17. Buildings to be set out by a registered surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs / placement of flooring materials.

**The following condition/s have been applied to ensure that reasonable levels of health, safety and amenity for the occupants of the building, neighbouring properties and the locality are maintained after the erection of the proposed building:**

18. Building materials, sand or waste materials shall not be placed on the footway or road reserve at any time.
19. Premises to be used as a single residential dwelling only at all times and shall not be used or adapted for separate use or occupation as multiple dwellings without the prior consent of Council.
20. There is to be no construction and/or demolition works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 6.00 pm Saturday, and prior to 9.00 am and after 4.00 pm Sunday.
21. Design details for the acceptance and the disposal of the stormwater drainage to and from the property being submitted with the application for a Construction Certificate and approved prior to issue of a Construction Certificate. (Note: No work is to be carried out on the public road until an application has been made and a Construction Certificate has been issued).

**The following conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:**

22. Stormwater shall be discharged to the street gutter or any available storm water easement on the site. The pipeline shall be connected to the kerb and gutter with a precast rigid kerb adaptor. The kerb adaptor shall be constructed flush with the kerb and have no sharp edges. Steel adaptors shall be hot dipped galvanised.
23. External paths and ground surfaces are to be graded and drained away from the building and adjoining premises in such a manner so as not to result in the entry of water into a building or cause a nuisance.

**The following condition/s have been applied to ensure compliance with Council's Erosion and Sediment Control Policy:**

24. All erosion and sediment control measures undertaken on the site shall be undertaken to conform to the specifications and standards contained in Council's guidelines.
25. Vehicular access shall be controlled so as to prevent the tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy.
26. The site shall be landscaped with all disturbed ground being stabilised against erosion to Council's satisfaction within 30 days of completion of building works.

**2 PES - Use of Storage Area - Bunnings Loading Dock - DA181/2009 - Stockland Shopping Centre, Forster**

**Index: DA181/2009 & PK35565**

**Author: Senior Development Assessment Planner - Alan Bawden**

**DCU Meeting: 8 October 2009**

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**DETAILS:**

Date Received: 10 October 2008  
Applicant: King and Campbell P/L  
Owner: Trust Company of Australia  
Land: Lot 1 DP 1136098, Breese Parade Forster  
Area: 11.8 ha  
Property Key: 35565  
Zoning: 3(a) General Business GLLEP 1996

**SUMMARY OF REPORT:**

- Application determination deferred from DCU meeting 5 March 2009.
- Additional information provided by the applicant.

**SUMMARY OF RECOMMENDATION:**

That the development application be approved.

**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:**

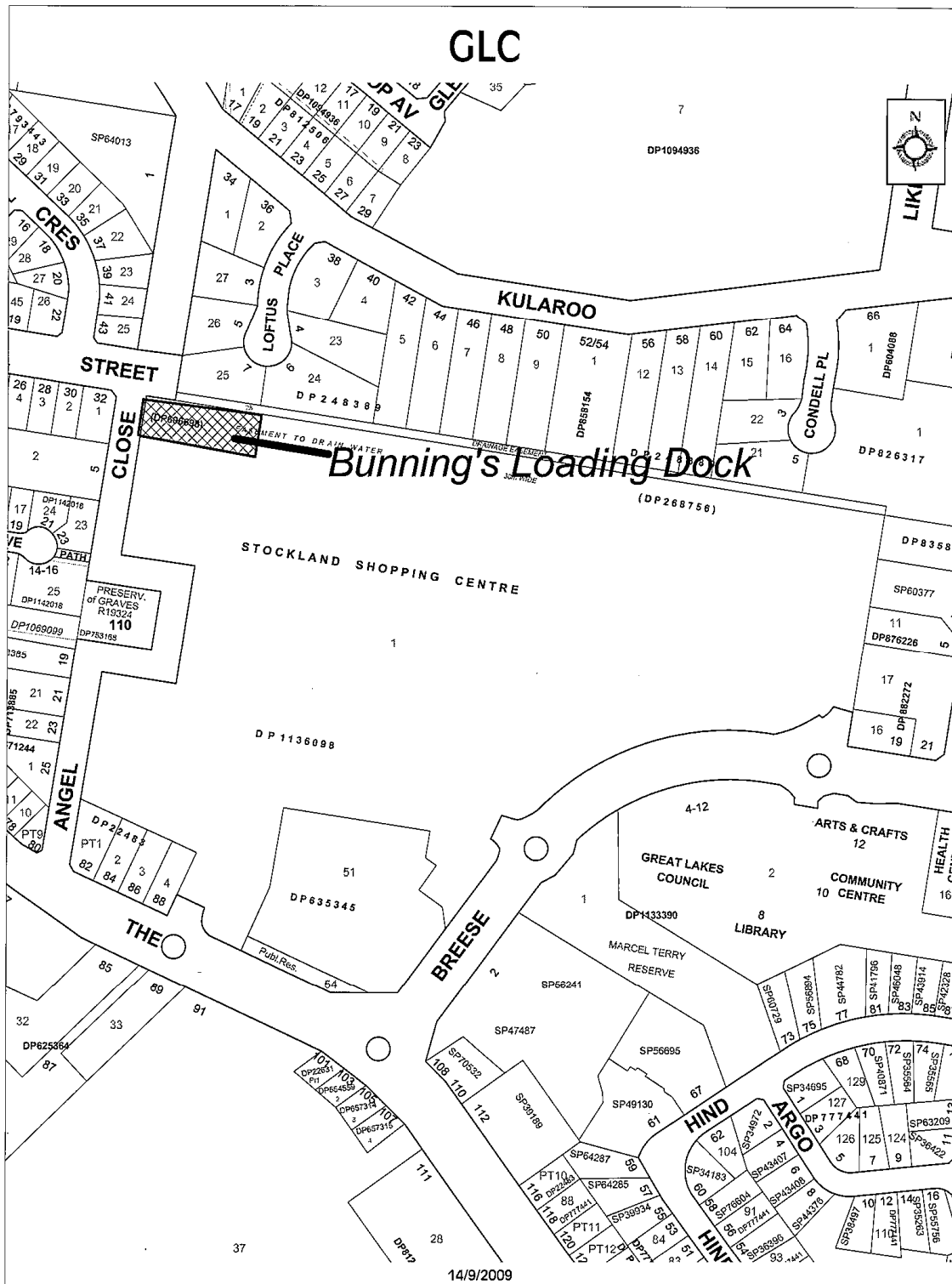
- A: Copy of letter to Mayor from Bunnings dated 28 April 2009.
- B: Council DCU report 5 March 2009.

**LIST OF ATTACHMENTS:**

Nil.

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**SUBJECT SITE AND LOCALITY:**



Disclaimer.  
This map was produced by Great Lakes Council using information from the Land

## **REPORT:**

Development application 181/2009 for the use of a storage area for the Bunnings loading dock was reported to the Development Control Unit (DCU) meeting of the 5 March 2009 for determination. The DCU resolved to defer the application to a meeting on 2 April 2009 to enable the applicant to consult further with the land owner (Stockland).

Council's Manager of Development Assessments further advised the DCU on the 2 April 2009 that consideration of this matter be deferred to a later meeting of the DCU to allow the applicant to have further discussions with Council officers regarding the application.

The two principle issues of concern were the requirement for a 3 metre high timber fence along the rear of the loading dock adjoining Council's drainage reserve and the recommendation in respect to illegal development work.

In respect to the fencing issue, Council was advised on the 8 September 2009, that Stocklands has erected a timber fence that now complies with Condition 32 of DA505/2005 specifically "provide a line of sight barrier between residence in Bright Street and Christian Crescent, Forster". The report for this development application (DCU 5 March 2009) recommends the timber fence be extended for the length of Bunnings loading and storage area, to further 'shield' residential properties in Bright Street and Christian Crescent, Forster from any visual or noise impacts generated by the use of the storage racking. Further, Stocklands advised that they have already constructed this fence, so no objection to the proposed condition remains.

On the 28 April 2009 Bunnings wrote to the Mayor of Great Lakes Council requesting that the DCU report recommendation B, "That Council issue an Infringement Notice under Section 125 of the Environmental Planning and Assessment Act 1979 for the carrying out of work without development consent" be deleted, as Bunnings are only the tenant and that Stocklands should have included the storage racking in the original development application (DA 505/2005).

As stated in the previous DCU report, Council received one (1) public submission (signed by four (4) persons living in the locality). One of their objections related to the fact that the original Stocklands expansion development had not completed the timber 'acoustic' fence to the requirements of condition 32 of DA 505/2005 being "provide a line of sight barrier between residence in Bright Street and Christian Crescent, Forster". This objection, as previously reported, has now been satisfied by way of the erection of the new timber fence.

The application can now be determined as per the report and recommendation of 5 March 2009 as contained in Attachment A.

## **RECOMMENDATION:**

- A. It is recommended that DA 181/2008 for the use of Bunnings Delivery area for permanent and temporary goods storage associated with the retail activity of the Bunnings store, on Lot 1 DP 1099420 Breese Parade Forster, be approved subject to the following conditions of consent:
1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
  2. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia. Inspections shall be carried out as required by Section 162A of the EP&A Regulation 2000.

3. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
4. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a Construction Certificate. The plans shall detail:
  - a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas).
  - b) Footings of the proposed structure.
  - c) Structural steel beams/columns.
6. The 3 metre timber 'acoustic' fence be extended in an easterly direction to the point where the Bunnings large vehicle security gate intersects the northern boundary fence line. The fence shall be identical in material, finish and height of the existing timber 'acoustic' fence and shall be constructed prior to the use of the site as a storage area.

The timber fence shall be maintained in an 'as constructed' condition at all times.

7. A Hazardous/Dangerous Material storage and emergency response management plan be implemented prior to the use of the area for permanent or temporary storage of dangerous or hazardous goods.
8. No goods stored in the nominated temporary storage area shall exceed the height of the timber 'acoustic' fence, at any time.
9. Upon completion and occupation of the development no machinery, vehicles or equipment is to produce noise greater than 5dB(A) above background at the boundary of any residential property.
 

A noise report is to be submitted to Council within 12 months of the use of the approved storage racks and area detailing the impact of noise of the delivery and storage area.
10. Arrival of vehicles, deliveries and dispatches within the Bunnings loading dock and associated manoeuvring area are not to occur between the hours of 6.00 pm and 7.00 am on any day. This includes but is not limited to trucks and forklifts.
11. The developer shall plant an additional 3 trees, *Syzygium luehmannii* (The Cherry Myrtle) or as approved by Council's Tree Preservation Officer, in the Angel Close road reserve, as directed by Council's Tree Preservation Officer
12. The applicant shall ensure the turning areas as detailed on the plan titled: Drawing Phase TOWN PLANNING, Drawing Title Proposed Racking are kept clear at all times. This condition has been applied so that at least two delivery trucks can enter and park adjacent to the "goods inward" area of the warehouse building,

Notes:

- The turning area shall be a maximum of a three point turn for the delivery trucks to enter and exit the site in a forward direction.
- Delivery trucks are to include a 19.0 metre articulated vehicle (prime mover and associated trailer) and a 12.5 metre long heavy rigid truck.

- Turning truck circles/manoeuvring areas to be in accordance with Australian Standard AS 28990.2
  - Any reversing movement kept to a minimum distance (eg 15 metres).
- B. That Council issue an Infringement Notice under Section 125 of the Environmental Planning and Assessment Act 1979 for the carrying out of work without development consent.

**3 PES - Proposed Amenities Block - DA 28/2010 - Lot 1 DP 248650, Boomerang Drive, Boomerang Beach**

**Index: DA28/2010 & PK8984**

**Author: Development Assessment Planner – Joanne Dunkerley**

**DCU Meeting: 8 October 2009**

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**DETAILS:**

Date Received: 17 July 2009

Applicant: Great Lakes Council

Owner: Great Lakes Council

Land: Lot 1 DP 248650, & Part of Car Park, Boomerang Drive, Boomerang Beach

Area: 1.93 Hectares

Property Key: 8984

Zoning: 6(a) – Open Space and Recreation; 2 - Village, GLLEP 1996

**SUMMARY OF REPORT:**

- The application proposes the construction of an amenities block.
- Three submissions were received as a result of the neighbour notification.
- The proposal is considered to be satisfactory having regard to the relevant legislation, Council codes and policies.

**SUMMARY OF RECOMMENDATION:**

That the application be approved.

**FINANCIAL/RESOURCE IMPLICATION:**

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:**

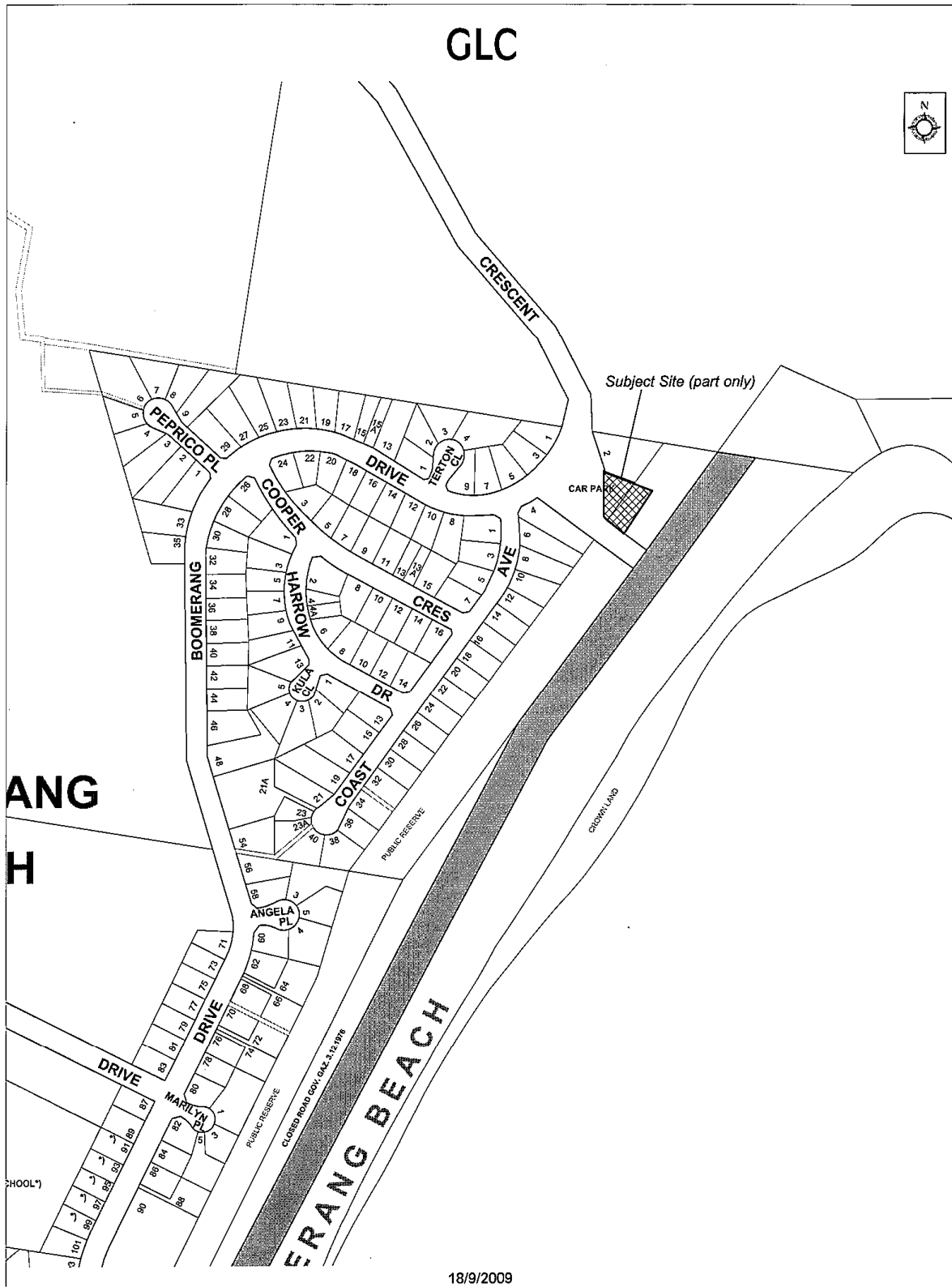
A: Plans of the proposed development

**LIST OF ATTACHMENTS:**

Nil

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**SUBJECT SITE AND LOCALITY:**



18/9/2009

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## **BACKGROUND:**

Construction of an amenities facility at this location has been under consideration by Council for over 10 years and in 2003 Council resolved to grant consent to a similarly sized amenities block (although with a pitched roof) which was to be located in a similar location (approximately 2m further to the south), and subject to *"investigations being undertaken in regards to an amended design that is more sympathetic to the environment"*. Amended plans were not submitted and the application was withdrawn.

Prior to this application being lodged, extensive community consultation was undertaken by Council's Parks and Recreation Department and the design of the amenities block was amended after consideration of submissions made during the consultation process.

This application was lodged on the 17 July 2009. On the 12 August 2009 the application was notified to surrounding property owners and all required referrals were undertaken.

## **PROPOSAL:**

The application proposes the construction of an amenities block within the reserve at the Northern end of Boomerang Beach. The amenities block is to include male and female toilets, each containing 2 WC's, a hand wash basin and change area; a unisex accessible toilet and shower, a cleaners store and a 19.21m<sup>2</sup> general storage area. A concrete/gravel access path is proposed around the perimeter of the building whilst two (2) 8200 litre rainwater tanks are proposed to collect roof water for re-use within the toilet facilities. The structure is to be of masonry construction with a light-weight metal skillion roof.

The construction of the amenities block will require the removal of some coastal heath vegetation together with excavation of the dune and construction of a retaining wall up to approximately 850mm in height along the northern side of the proposed building.

Plans of the proposed development is contained in Annexure 'A'.

## **SITE DESCRIPTION:**

The site is located on the eastern side of Boomerang Drive at the northern end of Boomerang Beach and is part of Council's Public Reserve. The site consists of a sealed car parking area, a grassed reserve containing two covered picnic tables and a timber viewing platform and dunal areas covered with coastal heath.

The site has an undulating topography with falls east towards the Beach front and west towards Boomerang Drive. The northern part of the site contains a large dunal area covered with coastal heath that falls towards the grassed reserve area and car park.

The surrounding development consists of a mix of one and two storey single and multiple dwelling developments.

## **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 proposed amenities building is to be constructed over two different land zones – partly within the 6(a) – Open Space and Recreation zone and partly within the 2 – Village zone. Under the provisions of GLLEP 1996, the amenities building can be defined as a "community facility" which is permissible within both zones. A "community facility" is defined as:

*"a building or place owned or controlled by a public authority or a body of persons which provides for the physical, social, cultural or intellectual development, safety or welfare of the community; but does not include a place elsewhere defined in this plan."*

The proposal is also considered to be consistent with the aims of GLLEP 1996 and the objectives of both the 2 – Village zone and the 6 (a) – Open Space and Recreation Zone.

### **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. The proposal is considered to be consistent with the matters detailed in the Policy.

### **Draft Local Environmental Plan No 13 (LEP 13)**

The part of the site that is currently zoned 2 - Village is proposed to be rezoned to 2(a) – Low density residential under LEP 13. The proposal is permissible within the 2(a) – Low Density Zone and is considered to be consistent with the objectives of the 2(a) – Low Density Residential Zone.

### **NSW Coastal Policy 1997**

The 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. The amenities block is considered to be consistent with the objectives of the proposal.

### **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 and provides 'Design Guidelines for the Natural Edges' of coastal settlements. In this regard, the guidelines indicate that in order for foreshore facilities to achieve the objectives for settlement edges it is important to:

*"Design and locate foreshore facilities, such as carparks, toilet blocks and picnic areas to reduce their visual intrusion on the foreshore, view corridors and vistas."*

The proposal is considered to be consistent with the Coastal Design Guidelines as the amenities block has been designed and located so that it sits within the surrounding natural landscape and does not intrude on the foreshore or the scenic vista.

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

### **Context and Setting**

The design of the building is considered to be suitable to the surrounding visual context and setting. The amenities block is of a contemporary design and utilises materials consistent with the coastal setting and the variety of residential dwellings within the vicinity of the site.

The provision of toilet facilities in this reserve is appropriate, given the existing car parking and picnic facilities.

### **Views**

The proposal is not considered to impact on any significant views. The amenities block is to be located so that it is partially excavated into the existing vegetated dune and the height of the structure will be similar to the existing dunal vegetation.

### **Privacy (Aural and Visual)**

The proposal is not considered to result in any adverse visual or aural privacy impacts to adjoining properties.

### **Visual Impact**

The amenities building is not considered to result in any detrimental visual impacts. The design and materials of the building are consistent with the coastal setting and surrounding locality. The building has been setback into the dune and the existing coastal heath is to be retained which provides substantial screening of the building.

### **Drainage**

It is proposed to collect roof water from the building into rainwater tanks for re-use within the building.

### **Flora and Fauna**

The proposal was reviewed by Council's Tree Management Officer who indicated that 39 young coastal plants would need to be removed to facilitate the development in its current form and notes:

*"I am of the opinion that these 39 native coastal plants could easily be retained if the proposed development was brought forward away from the vegetated bank. Although the removal of these native plants would not have any long term effect, the plants are young and replacement planting could be undertaken to assist in the street scaping of the site."*

Having regard to the competing interests with regard to retention of the existing grassed picnic area and reducing view impacts and given that the loss of vegetation would not have any long term impacts, the removal of some vegetation to facilitate this development is considered to be acceptable.

### **Climate Change**

The impacts of climate change have been considered by Council's Engineering Development Officer who has advised:

*"Flooding is not considered an issue to the proposed development as it is non – habitable, situated behind vegetated dunes, and the proposed floor levels indicate it will be clear of any expected increases in sea level due to climate change. What is of a higher concern is the impact of future recession and possible erosion due to climate change and sea level rise. Council is currently seeking tenders for the provision of an impact study into the effects of climate change and sea level rise along Boomerang and Bluey's Beach. It is hoped that these studies (which will include a management plan for protection of assets along the beach front) will be completed by October 2010."*

*It is envisaged that the management plan will incorporate protection of the section of dune immediately adjacent to the east of the proposed development in conjunction with providing protection for the existing one way bitumen road that runs along the frontage of Boomerang Beach. To withhold the progression of this development application in lieu of the coastal management plan being established and implemented is considered onerous by the Engineering Department as the likelihood of dunal erosion and recession in the short term period is minimal."*

Accordingly, the proposal is considered to be satisfactory in regard to potential climate change impacts.

### **Cumulative Impacts**

The proposal is not considered to result in any detrimental cumulative impacts.

### **The Suitability of Site for the Development**

The site is considered to be suitable for the development as it provides facilities consistent with the use of the area for public recreation.

### **Any Submissions Made in Accordance with the Act or Regulations**

The application was notified to adjoining property owners for a period of 14 days between the 12 August and 26 August 2009 in accordance with Council's Notification Policy. Three submissions were received which raised the following issues:-

#### **1. Amenities block will encourage use of the area for overnight camping**

One submission raises the concern that the reserve is already used for overnight camping and construction of the amenities building will encourage further illegal camping

**Comment:** *It is proposed that the amenities block will be locked between dusk and dawn. As such it is not considered that the provision of these facilities will encourage people to use the reserve overnight. Further, Council has powers under existing legislation to take action against people who illegally stay overnight.*

#### **2. Proposal is not in keeping with surrounding development**

One submission suggests that the building is not consistent with the surrounding development as surrounding buildings have been setback from the beach-front with a tract of screening plants and a small road.

**Comment:** *The location and design of the toilet block is considered to be suitable for the area. The site is different to the adjoining private properties in that it is a public reserve that provides public access to the beachfront and other public facilities. The small size and low scale of the structure together with the retention of vegetation between the building and the beachfront allows the structure to blend into its surroundings.*

#### **3. Visual Impact**

Concerns are raised that the amenities block will be an "eyesore".

**Comment:** *It is not considered that the amenities block will have a negative impact on the visual amenity of the area. The design and external materials are consistent with other contemporary buildings found in the coastal zone and this type of building is expected to be found within a public reserve. Further, the building has been designed to sit within the existing vegetation, so that most views of the structure will be screened by vegetation.*

#### 4. Car Parking

Concerns are raised that the amenities block will attract more people and given that car parking is already utilised to capacity this will result in more people parking on the street with associated dangers to people crossing the road.

**Comment:** *The provision of amenities is not considered to result in substantial increases to traffic in the area. Many pedestrians already utilise this area, which has a 50Km/h speed limit consistent with a built up area and the provision of toilet facilities will not compromise the safety of the area. Council's Transport Asset Branch have reviewed the proposal and raised no objection.*

#### 5. Sufficient Amenities already provided

One submission suggests that there are sufficient toilet facilities within the area.

**Comment:** *Although there are other toilets in the area, these are a significant distance from this part of Boomerang Beach and also do not conform to current standards. The nearest toilet, located at the southern end of Boomerang Beach is over 1.2 kilometres from this car park/picnic area and does not have accessible toilet facilities. Given that this site has a car park, viewing platform and picnic facilities, it is also appropriate to provide toilet facilities for users of this area. There is also a history of defecation in the existing reserve, demonstrating the need for public toilets. It is also in the public interest to provide modern accessible toilet facilities.*

#### 6. Impact on views

One submission raises the concern that the proposal will impact on views.

**Comment:** *A site inspection was carried out and it was determined that the proposal will not significantly impact on views. As the amenities block has been set-back into the existing dune, the proposal will not impact on views from properties across the street as the existing dunal vegetation restricts views of the ocean. Height poles erected on the site, indicate that part of the roof overhang will obscure a tiny portion of the ocean currently visible. There are still substantial views of the ocean available from the top verandah of the affected property.*

#### 7. Size and scale

A number of submissions raise concern with the bulk and scale of the amenities building and suggest that it should be smaller, containing only toilets. One submission indicates that 48% of the floor space is for storage.

**Comment:** *The bulk and scale of the proposal is considered to be suitable for the area. The height of the structure is consistent with the surrounding vegetation (as it is to be partly excavated into the dune) and the scale is suitable with the provision of modern facilities that meet the needs and expectation of users. A calculation of the floor space of the storage area as a percentage of the total floor area of the building has found that it is 33%, being one third of the total building area. The storage room does not add significantly to the bulk and scale of the structure due to the positioning and design of the structure. It also makes good financial and planning sense to ensure facilities are suitable for the future needs rather than trying to alter and add to the building at a later date.*

## 8. Loss of picnic area

Concern is raised that the "filling of a relatively small grassed area is counterproductive to the purpose of the area – public recreation".

**Comment:** *The proposal does not fill a significant part of the existing grassed area. Due to concerns raised by the public during previous advertising, it was determined that the amenities block should be set further back into the existing dune. Accordingly, the amenities block has been set-back into the dune. As this part of the site is vegetated by coastal heath, it is not currently utilised for public recreation. It should also be noted that the provision of public facilities for users of the recreational space is permissible within the zone and will allow better use of the existing picnic facilities.*

## 9. Impacts on dune and vegetation

One submission raises concerns regarding the loss of native vegetation, the impacts on the dune and visual impact from Boomerang Drive, suggesting that the amenities block should be relocated towards the northern corner of the carpark.

**Comment:** *As previously discussed, Council's Tree Management Officer has reviewed the proposal and raised no objection to the removal of vegetation. It is considered that the removal of vegetation will not have a significant visual impact as the retention of vegetation on the northern, eastern and western sides of the building will allow it to sit within the landscaping, screening it from most angles, other than people approaching from the south. The amenities building, however, is consistent with the type of building expected to be seen in a public recreation area. Appropriate construction techniques and the retention of vegetation on the remainder of the dune will ensure its stability.*

*It is considered that the current position of the amenities building is the most appropriate position having regard to the competing needs of retention of the grassed area, views and vegetation. Moving the amenities block to the northern corner of the car park would make it more visually prominent from Boomerang Drive, would require greater excavation of the dune and may require additional ramp structures to facilitate access.*

## 10. Use of storage area by private organisations

One submission indicates their opposition to private organisations having access and accountability to the storage room.

**Comment:** Private use of the storage room is not intended under this application.

### **The Public Interest**

The public interest has been considered throughout the assessment of this application and it is considered that the approval of this application is in the public interest.

### **CONCLUSION:**

The proposal is satisfactory having regard to the relevant legislation, Council Codes and Policies. The design and finishes of the building are consistent with the coastal setting whilst the location of the structure, being partly excavated into the dune ensures that it does not obstruct views or result in a detrimental visual impact on the surrounding area.

## RECOMMENDATION:

That the application for an amenities block at Lot 1 DP 248650 and the adjoining road reserve be approved subject to the following 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 plans numbered 3001 to 3004 issue C, prepared by Pacific Blue Design and dated 6 May 2009, the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
3. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the certifying authority **prior to the issue of a Construction Certificate**. The plans shall detail:
  - a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
  - b) Footings of the proposed structure.
  - c) Structural steel beams/columns.
5. A designated disabled car parking space complying with AS1428.1, with provision directly adjacent to the space for hard surface wheelchair access to the amenities block shall be provided in the existing car park. Should the space be provided where kerb and gutter does exist, the applicant must provide a kerb ramp in accordance with Council's standard 165. A plan detailing these requirements is to be submitted and approved by the Certifying Authority **prior to the release of the Construction Certificate**.
6. **Prior to the issue of a Construction Certificate** a Certificate of Compliance from MidCoast Water is to be submitted to the Certifying Authority stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development.
7. All external building materials shall be in neutral, recessive, non-reflective colours and textures, which harmonise with the colours of the natural landscape. A schedule of external colours and finishes is to be submitted and approved by the Certifying Authority **prior to the issue of the Construction Certificate**. In this regard unpainted metal, zincalume, white or off-white materials are not acceptable.
8. **Prior to the commencement of work**, a sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
  - a) The name, address and telephone number of the principal certifying authority for the work; and
  - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
  - c) The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be removed when the work has been completed.

9. **Prior to the commencement of work**, toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.
10. Erosion and sediment control devices are to be installed **prior to the commencement of work** in order to prevent sediment and silt from site works being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland and neighbouring properties and measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times in accordance with Council's Erosion and Sediment Control Policy.
11. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia. Inspections shall be carried out as required by Section 162A of the EP&A Regulation 2000.
12. Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
  - a) Monday to Friday, from 7 am to 6 pm.
  - b) Saturday, from 8 am to 1 pm.No construction work is to take place on Sundays or Public Holidays.
13. All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.
14. The developer must make any necessary alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
15. The overflow from the storage tanks shall be drained by a stormwater drainage pipeline to the Council kerb and gutter. A pre-cast rigid kerb adopter constructed flush with the kerb and having no sharp edges must be used. Steel adopters shall be hot dipped galvanised.
16. Any fill or regrading shall be carried out in accordance with Council's specifications and is to have a turfed finish.
17. All existing landscaped areas surrounding the required building area are to be retained and protected from any construction damage. All areas adjacent to the approved building works are to be reinstated to have the same character and style. All disturbed areas shall be rendered erosion-resistant by turfing, mulching, or otherwise suitably stabilised within seven (7) days of completion.
18. The amenities block is to be locked between dusk and dawn each day.
19. **Prior to the issue of an Occupation Certificate**, a Certificate of Compliance from MidCoast Water is to be submitted to the Principal Certifying Authority stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development.

**4 PES - Addition of Cabana & Garden Shed (Use of) DA52/2010 - 77  
Underwood Road, Forster**

**Index: DA52/2010 & PK7253**  
**Author: Senior Building Surveyor - Bruce Arkle**  
**DCU Meeting: 8 October 2009**

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**DETAILS:**

Date Received: 4 August 2009  
Applicant: Mr V J White  
Owner: Mr V J White and Mrs B E White  
Land: Lot 20 Sec 1 DP 22922, 77 Underwood Road, Forster  
Area: 436.3m<sup>2</sup>  
Property Key: 7253  
Zoning: 2a Low Density Residential, GLLEP 1996

**SUMMARY OF REPORT:**

A complaint was received in regard to a fence and several minor structures having been erected within the back yard of the premises without the consent of Council.

**SUMMARY OF RECOMMENDATION:**

That the minor structures are permitted to remain and that no further action is taken in this matter.

**FINANCIAL/RESOURCE IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**LIST OF ANNEXURES:**

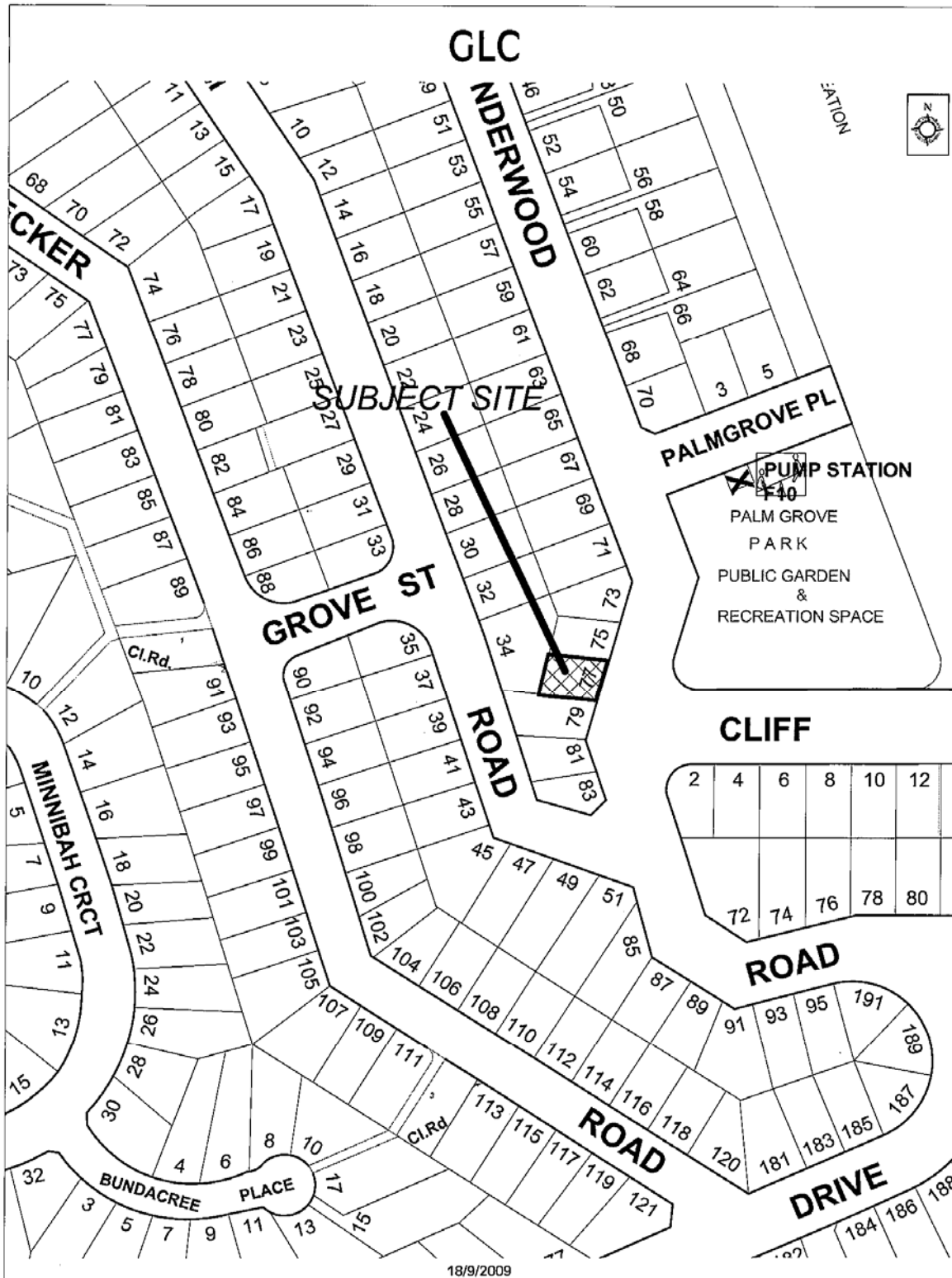
A: Site Plan

**LIST OF ATTACHMENTS:**

Nil

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**SUBJECT SITE AND LOCALITY:**



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## **BACKGROUND:**

A written complaint was received on the 30 April 2009 in regard to a fence on the subject property not complying with Council policy. On the 14 May 2009 the complainant added to his original complaint stating that two structures within the back yard of the property appeared not to comply with Council Policy. Council's regulatory officer visited the site on the 5 June 2009 and found that the fence was compliant with policy but that two minor structures appeared to have been erected not in accordance with the provisions of DCP 28 Exempt and Complying. The two structures were a small thatched roof cabana 2.5m x 2.8m x 2.8m high and a colourbond metal shed 0.6m x 1.7m x 2m high.

## **PROPOSAL:**

The owner has proposed that the two structures are permitted to remain.

The cabana is located approximately 0.300m from the southern boundary and 1.0m from the western boundary of the property. The garden shed is at the side of the existing dwelling and positioned against the fence.

## **SITE DESCRIPTION:**

The site is a steeply sloping site with a 16.75m frontage to Underwood Road Forster. Erected on site is a two storey brick dwelling with a tiled roof. The back yard of the premises has been substantially landscaped with the cabana forming part of the landscaping theme and the garden shed located in a practical position on the fence at the side of the dwelling.

Both structures are erected over a short dead end sewer line that runs to the side of the existing building. There are no formal easements over the land.

## **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 land is zoned 2(a) Low Density Residential. The structures are compliant with the objectives of the zone.

### ***State Environmental Planning Policy***

The property falls within the coastal protection zone defined within SEPP 71 but is not within a sensitive coastal location. The proposal is considered to be compliant with the aims and matters for consideration of the SEPP.

### ***Development Control Plan No.***

Each proposal has been considered in terms of DCP 28, Exempt and Complying and found not to be exempt development as both structures are within 0.9m of a side boundary. Otherwise both structures would be exempt development under the DCP.

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

### ***Context and Setting***

The structures are unnoticeable within the locality and are considered to have no impact on adjoining premises.

### ***Any Submissions Made in Accordance with the Act or Regulations***

The application was notified to adjoining owners in accordance with Council's Policy. A single submission was received supporting the application. The submission came from the neighbour immediately adjacent to both structures.

The proposal was referred to MidCoast water who have stamped the plan accepted with conditions. I understand that they were concerned that the cabana may have damaged the dead end sewer line that passes below it and the garden shed. I have been informed that since that time MidCoast have checked the sewer and have no objection to both structures. Where approved a condition should be attached requiring that the owner comply with any conditions required by the water and sewerage authority.

### **CONCLUSION:**

Both structures are considered to be of a minor nature and appear not to compromise the amenity of the locality or of neighbouring properties. The structures are erected over MidCoast Water's sewer but are of a nature that the water and sewer authority has accepted them. It will be recommended that both structures are permitted to remain subject to conditions.

### **RECOMMENDATION:**

It is recommended that development application No 52/2010 for the use of a cabana and a garden shed is approved subject to the following conditions;

**The following conditions 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 being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
2. The applicant shall comply with any requirements of MidCoast Water in regard to both structures.

## **5 PES - Applications by Council - DA68/2010 - Floating Pontoon and Gangway, Forster Harbour, Forster**

**Index: DA104/2010 & PK36424**

**Author: Development Assessment Planner – Joanne Dunkerley**

**DCU Meeting: 8 October 2009**

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### **DETAILS:**

Date Received: 27 August 2009

Applicant: Masterbuilt Homes

Owner: Department of Lands

Land: Part Lot 44 DP 753168 (Forster Harbour), Forster

Area: N/A

Property Key: 36424

Zoning: 6(a) - Open Space and Recreation, GLLEP 1996

### **SUMMARY OF REPORT:**

Applications lodged for or on behalf of Council, are required to be reported to Council to determine whether the application can be assessed by Council Officers or by external consultants.

### **SUMMARY OF RECOMMENDATION:**

That the information be noted and that the application be assessed by Council staff.

### **FINANCIAL/RESOURCE IMPLICATIONS:**

Should Council resolve to have the application assessed by a Consultant, this will result in a financial cost to Council.

### **POLICY IMPLICATIONS:**

Nil

### **LEGAL IMPLICATIONS:**

Nil

### **LIST OF ANNEXURES:**

Nil

### **LIST OF ATTACHMENTS:**

Nil

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**PROPOSAL:**

The application proposes the construction of a floating pontoon and gangway to be attached to the existing timber jetty.

The proposal was reported to the Commercial Enterprises Committee of the 17 August 2009 where it was recommended that:

*"the Committee recommend that Council as land owner/trustee support the Development Application being lodged by the applicant for the reasons outlined in the report"*

**REPORT:**

Council's 'Applications by Council' Policy states:

*"Council is to be advised by Information Report to an Ordinary Meeting or Development Control Unit (DCU) meeting, as soon as practicable after lodgement, of all applications either lodged by Council, co-jointly with Council or on behalf of Council. All such application are to be clearly notified as applications made by, or on behalf of Council.*

*Where an application confers a substantial commercial benefit to Council, the application is to be assessed by independent consultants unless Council resolves to be assess the application internally and states the reason for this decision within the resolution.*

*Where an application has the potential to impact significantly on the environment, the application is to be assessed by independent consultants unless Council resolves to assess the application internally and states the reasons for this decision within the resolution".*

It is to be noted that this application is subject to assessment under Section 79C of the Environmental Planning and Assessment Act 1979 and if the application is supported, changes to the proposal may be made by imposing conditions of consent.

**CONCLUSION:**

It is considered that DA-104/2010 does not confer a substantial commercial benefit to Council and does not have the potential to impact significantly on the environment.

**RECOMMENDATION:**

It is recommended that the information be noted and that the application be assessed by Council staff.