



NOTICE OF MEETING

Notice is hereby given that a meeting of the

STRATEGIC COMMITTEE

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

TUESDAY 10 NOVEMBER 2009 AT 9.30AM

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:
Strategic Committee Meeting 6 October 2009
- 9.30am - 11.00am Forster Tuncurry Land Employment Strategy - presentation by Economic Development Manager - Deb Tuckerman and Sarah Hill - Principal Planner, Hill PDA.
- 11.00am - 12.00pm Auditors.
- 12.00pm - 12.30pm Consideration of Officers' Reports:
General Manager
Director Planning & Environmental Services
Director of Engineering Services
Director Corporate & Community Services
- 12.30pm - 1.15pm LUNCH
- 1.15pm - 2.45pm Seal Rocks DCP Submissions
8. Urgent Business
9. Close of Meeting

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:

GENERAL MANAGER

1 GM- Draft Forster Tuncurry Employment Land Strategy

Index: Economic Development - Land
Author: Economic Development Manager - Deb Tuckerman
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

Adoption of the Draft Forster Tuncurry Employment Land Implementation Strategy (May 2009) was considered at the August 2009 Ordinary Meeting where Council resolved,

'That this matter be deferred for consideration at a Council Workshop.'

Changes to the public exhibition draft will be presented to Council together with an update in relation to a peer review of Council's draft Strategy carried out by NSW Department of Planning.

Sarah Hill, Hill PDA, will be present at the workshop to answer any questions from Councillors. Following the presentation, Council will be requested to adopt the Forster Tuncurry Employment Land Implementation Strategy (May 2009).

SUMMARY OF RECOMMENDATION:

1. Council note the contents of the presentation;
2. Council adopt the Forster Tuncurry Employment Land Implementation Strategy (May 2009);
3. The recommendations from the Strategy inform Council's LEP review process and preparation of the new comprehensive LEP.

FINANCIAL/RESOURCE IMPLICATIONS:

This project has been jointly funded by Council, Landcom and the NSW Departments of Planning and State & Regional Development.

POLICY IMPLICATIONS:

The Strategy is to provide Council with a clear framework on which to plan the provision of optimal areas for retail, commercial, bulky goods and industrial activities so as to satisfy demand over the next 25 years in the Forster Tuncurry area and maximise the benefits to the local community.

The brief for the project required the consultants to recommend mechanisms to achieve desired outcomes for the study area which has involved making recommendations to inform Council's LEP review process, guide future rezoning and assess related development proposals. This includes identification of appropriate zones to be applied in accordance with the NSW Department of Planning's Standard Template LEP and recommendation of other incentives and economic development initiatives to achieve desired outcomes.

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Previous item to Ordinary Council Meeting, August 2009 (including the annexure - Summary of Public Submissions Received)
- B: Summary of comments resulting in changes in order of the draft Strategy contents.
- C: Letter from NSW Planning regarding retail review - proposed retail development at The Lakes Way, Forster

LIST OF ATTACHMENTS:

Final Draft Forster Tuncurry Employment Land Implementation Strategy (May 2009)

Due to its large size, copies of the document have only been circulated to Councillors and Senior Staff as a paper conservation measure. However, this Attachment is publicly available on Council's Website, copies are available at Council offices and copies are available on request.

REPORT:

Background

A report was tabled at the August 2009 Ordinary Meeting outlining changes made to the draft Forster Tuncurry Employment Land Implementation Strategy (to be known as the 'draft Strategy') following the period of public exhibition between December 2008 and March 2009 and requesting Council to adopt the Strategy.

Council resolved:

'That this matter be deferred for consideration at a Council Workshop.'

Presentation

A presentation will be made to Councillors on:

1. Outcome of the peer review carried out by NSW Planning in relation to the proposed retail development on the Lakes Way Forster - implications for the proposed development.
2. Outcome of the peer review carried out by NSW Planning in relation to the proposed retail development on the Lakes Way Forster - implications for Council's draft Forster Tuncurry Employment Land Implementation Strategy.
3. Changes made to the original draft Strategy following the exhibition period between 17 December 2008 and 13 March 2009.

Sarah Hill (Practice Manager and Principal Planner, Hill PDA) will be present at the workshop to answer any questions from Councillors.

Following the presentation, Council will be requested to adopt the Forster Tuncurry Employment Land Implementation Strategy (May 2009).

Peer Review

The NSW Department of Planning has received an application for a proposed retail development on The Lakes Way Forster for the area known as Pipers Creek.

As indicated in the previous item to Council, Council officers were invited by the Department to provide key issues and assessment requirements in July 2009. Officer comments were made in relation to discrepancies between the 'Retail Floor Space Needs and Demand Assessment' prepared for the proposed development and Council's draft Strategy.

Subsequently, the Department of Planning engaged consultants (MacroPlan) who has undertaken a peer review of the two documents. This review has been completed. In summary, MacroPlan recommends that Council's draft Forster Tuncurry Employment Land Implementation Strategy does not need to undergo revision. In relation to the proposed retail development for Piper's Creek, the Department has advised: *'The peer review recommended a reduction in the proposed retail development floor space, further consideration for staging the development, as well as further assessment of retail turnover impacts on existing centres.'* (Refer Annexure C.)

Further details of the peer review and its recommendations will be provided at the workshop.

Changes to the Draft Strategy

13 submissions were received from the public as a result of the draft being placed on public exhibition. An internal Council review of the draft was also undertaken during and after the exhibition period.

A summary of public submissions and officer comments and resulting changes were provided for Council as part of the report to the August 2009 meeting (refer Annexure A). In order to address these matters in a logical format at the workshop, a summary of amendments have been presented in the same order as the 'Contents' section of the draft Strategy in Annexure B. Typographical and grammatical corrections or corrections to improve the accuracy of descriptions of sites or the presentation of the findings have not been included in this summary.

Copies of the original public submission will also be available for viewing at the workshop.

Conclusion

Following public exhibition period and internal review, changes have been incorporated into the draft Strategy. It is recommended that the final draft Forster Tuncurry Employment Land Strategy (May 2009) be adopted.

RECOMMENDATION:

1. Council note the contents of the presentation;
2. Council adopt the Forster Tuncurry Employment Land Implementation Strategy (May 2009);
3. The recommendations from the Strategy inform Council's LEP review process and preparation of the new comprehensive LEP.

2 GM - Economic Development Advisory Committee Minutes August 2009

Index: Economic Development Advisory Committee
Author: Economic Development Manager - Deb Tuckerman
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

This report provides Council with an outline of the August 2009 meeting of the Economic Development Advisory Committee meeting and requests Council to note the minutes.

SUMMARY OF RECOMMENDATION:

Minutes of the Great Lakes Economic Development Advisory Committee Meeting held 26 August be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

The basis for the operation of the Advisory Committee (GLEDAC) is the implementation of Council's Strategic Plan for the Economic Development of the Great Lakes Area adopted by Council in November 2002.

LEGAL IMPLICATIONS:

GLEDAC is a s355 Committee of Council.

LIST OF ANNEXURES:

- A: Minutes of Great Lakes Economic Development Advisory Committee meeting held 26 August 2009.
- B: Economic Development Manager's Report July - August 2009.

LIST OF ATTACHMENTS:

Nil

REPORT:

GLEDAC meetings are held at least every three months on the last Wednesday of the month.

The following item of interest is drawn to Council's attention:

Women in Business Growth Strategy Workshop:

A very successful workshop was held on 20 August at Club Forster entitled 'How to Communicate a Brand and Standing out from the Crowd'. The workshop was coordinated by Council and costs were covered by NSW Department of State & Regional Development. 25 people attended and the feedback was extremely positive.

Regional Development Australia:

The Great Lakes has been included in the Hunter region under the newly established 'Regional Development Australia' (RDA) structure which replaces the network of regional development boards and area consultative committees. While officially included in the Hunter Region, a community representative from the Great Lakes has been officially appointed to the Mid North Coast Board of RDA. Relationships will continue to be maintained with both the Hunter and Mid North Coast organisations as appropriate.

Change of Name - NSW Department of State & Regional Development:

In accordance with the NSW Government's departmental restructure, State & Regional Development is now part of 'Industry and Investment NSW'.

RECOMMENDATION:

Minutes of the Great Lakes Economic Development Advisory Committee Meeting held 26 August be noted.

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

3 PES - Application for Rezoning: Lot 52, DP 837402: 2-6 Rodmay Street, Tuncurry (Cnr Leo Street & The Lakes Way, Tuncurry)

Index: SP-LEP-75 – Leo Street Rezoning, Nth Tuncurry
Author: Manager Strategic Planning - Alex Caras
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

This follows on from the 28 August 2007 Ordinary Meeting report in relation to the above matter and Council's recent resolution of 28 July 2009 requesting that the rezoning proposal for the shopping centre at Tuncurry be resubmitted to the Department of Planning. The 28th July resolution was in response to the council report concerning a Project Application for a proposed new retail development at The Lakes Way, Forster (Proponent: Fabcot Pty Ltd, a wholly owned subsidiary of Woolworths).

This report presents the Department's response to Council's request for reconsideration of the above rezoning proposal.

SUMMARY OF RECOMMENDATION:

That Council:

1. Note the information contained in this report; and
2. Take no further action with respect to the Leo Street rezoning proposal.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A: Copy of Council's letter to Department of Planning dated 21 August 2009
B: Response from Director-General (DoP) dated 24 September 2009

LIST OF ATTACHMENTS:

Nil.

REPORT:

Council previously considered a number of reports regarding the above proposal to rezone land from 2(a) *Low Density Residential* to 3(a) *General Business* to enable the development of a retail centre and supermarket in North Tuncurry. At its 26th June Ordinary Meeting Council resolved as follows:

1. Council reaffirm its support of the rezoning application to enable the development of a new retail centre and supermarket in North Tuncurry;
2. Pursuant to S54 of the *Environmental Planning & Assessment Act 1979*, notify the Department of Planning that it seeks to rezone the subject land (lot 52, DP 837402, Tuncurry) from 2(a) *Low Density Residential* to 3(a) *General Business*).
3. All documents and petitions that have been received by Council also be included in the S54 application to the Department of Planning.

A Section 54 notification was subsequently sent to the Department of Planning in accordance with items '2.' and '3.' above.

The Director-General wrote back to Council on 3/8/07 advising that the Department does not support the proposed spot rezoning for a variety of reasons and suggesting that this type of proposal should be accommodated within the existing Tuncurry town centre.

The Director-General had further indicated that should Council choose to proceed with the above rezoning proposal this is likely to involve considerable staff resources and time, which would be unproductive given the Department has explicitly stated that it is unlikely to certify the draft plan pursuant to section 65(1) of the EP&A Act (refer to Annexure 'A').

Reconsideration of rezoning proposal by Department of Planning

Council at its 28 July 2009 Ordinary Meeting resolved (among other things) the following:

"That Council resubmit the rezoning request for the shopping centre at Tuncurry."

The above resolution follows a report to Council concerning a Project Application for a proposed new retail development at The Lakes Way, Forster (Proponent: Fabcot Pty Ltd, a wholly owned subsidiary of Woolworths). The project will be assessed under the provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy (Major Projects) 2005*. The Minister for Planning is the approval authority.

Council sent a letter on 21 August 2009 requesting the Department's reconsideration of its previous s54 rezoning submission and supporting information to rezone Lot 52, DP 837402, Leo Street in North Tuncurry from 2(a) *Low Density Residential* to 3(a) *General Business*). A copy of the letter is contained in Annexure 'A'.

A response from the Director-General (DoP) was received on 30 September 2009 advising that the proposal is still not supported on the basis that it is inconsistent with the following planning strategies:

- *Mid North Coast Regional Strategy;*
- *Forster/Tuncurry Conservation & Development Strategy; and*
- *Forster-Tuncurry Employment Land Implementation Strategy*

The response further states that "*Council has not provided any additional information to support the proposed rezoning nor has it provided any justification for deviating from Council's own Draft Forster-Tuncurry Employment Land Implementation Strategy, which recommends that the existing Tuncurry town centre be reinforced rather than allowing 'out of centre' development*".

A copy of the Department's response is contained in Annexure 'B'.

RECOMMENDATION:

That Council:

1. Note the information contained in this report; and
2. Take no further action with respect to the proposal to rezone Lot 52, DP 837402, Leo Street in North Tuncurry from *2(a) Low Density Residential* to *3(a) General Business*).

4 PES - Voluntary Planning Agreement - Rezoning PT Lot 6177 DP1099599, South Forster

Index: SP-LEP-36

Author: Manager Strategic Planning - Alex Caras

Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

This report presents an amended Planning Agreement in connection with the rezoning of Lot 6177 DP 1099599 in South Forster. The Agreement facilitates the dedication of the proposed 6(a) land to Council for conservation/open space purposes and also formalises future funding arrangements for the proposed water management system on the subject land. This report also presents a revised draft LEP Amendment No. 36 (DLEP36) which rezones the subject land to part 2(a)(*Low Density Residential Zone*) and part 6(a)(*Open Space and Recreation*). It is recommended that these documents be re-exhibited for a period of not less than 28 days.

SUMMARY OF RECOMMENDATION:

1. That Council, in relation to Lot 6177 DP 1099599, resolve to exhibit the following statutory planning documents concurrently for a minimum period of 28 days:
 - draft Planning Agreement between Davglade Pty Ltd and Great Lakes Council, as amended and contained in Attachment 'B' to this report;
 - draft Amendment No 36 to Great Lakes Local Environmental Plan 1996, as amended and contained in Annexure 'B' to this report.
2. That following the exhibition of the draft planning documents referred to above, a report be presented back to Council for consideration of submissions and final adoption.

FINANCIAL/RESOURCE IMPLICATIONS:

The project is included in the Strategic Planning Branch work program for 2009/10.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

The Planning Agreement can only take effect upon gazettal of DLEP 36.

LIST OF ANNEXURES:

- A: Draft Local Environmental Plan (Amendment No. 36) – instrument and zoning map as adopted on 21/10/08
- B: Draft Local Environmental Plan (Amendment No. 36) – instrument and zoning map as amended for further public exhibition

LIST OF ATTACHMENTS:

- A: Voluntary Planning Agreement between Davglade Pty Ltd and Great Lakes Council – as adopted on 21/10/08
 - B: Draft Planning Agreement between Davglade Pty Ltd and Great Lakes Council – as amended for further public exhibition
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REPORT:

This report presents an amended Planning Agreement in connection with the rezoning of Lot 6177 DP 1099599 (subject land), situated immediately east of The Southern Parkway in South Forster. The amended Agreement facilitates the dedication of the proposed 6(a) land to Council for conservation/open space purposes and also formalises future funding arrangements for the proposed water management system on the subject land. This report also presents a revised draft LEP Amendment No. 36 (DLEP36) which rezones the subject land to part 2(a)(*Low Density Residential Zone*) and part 6(a)(*Open Space and Recreation*). To provide some background context for these documents a summary of the respective planning history is provided below.

HISTORY

- **November 2005** – Davglade Pty Ltd makes an offer to Great Lakes Council to enter into a Voluntary Planning Agreement in connection with draft Great Lakes Local Environmental Plan – Amendment No. 36 (DLEP 36). DLEP 36 rezones that part of Lot 6177 DP 1099599 from 1(c) (Future Urban Investigation Zone) to part 2(a)(Low Density Residential Zone), part 6(a)(Open Space and Recreation Zone) and part “Deferred Matter” under Great Lakes LEP 1996.
- **26 September 2006** – Council adopts Voluntary Planning Agreement (VPA) between Davglade Pty Ltd and GLC together with Draft LEP Amendment No. 36 (DLEP36). Councillors should refer to the 26/09/06 Ordinary Meeting report (Item D7) for more detailed discussion of these documents.
- **25 January 2007** – DLEP36 sent to the Department of Planning seeking authorisation to have the plan sent to the Minister (for gazettal) pursuant to s69 of the EP&A Act, pending formal execution of the VPA by both parties.
- **16 February 2007** – Department issues authorisation to exercise the s69 functions subject to a number of conditions that Council must address, namely:
 - (i) deletion of clause 33B (2) & (3); and
 - (ii) resolution of RFS objection and zoning the two 1(c) zoned lots fronting Oriana Close

In relation to (i), the water quality provisions in clause 33B (2) & (3) were subsequently amended to exclude the “no net increase” objective and numerical parameters for future pollutant loads entering Pipers Creek. This followed advice from the Department that such provisions could not be managed or enforced through the LEP and would be more appropriately included in a DCP for the subject land.

In relation to (ii), subsequent advice from the RFS (dated 19 July 2007) indicated support for the future rezoning of these lots for residential purposes subject to certain bushfire protection conditions being satisfied. Consequently the draft Plan was amended to show the two 1(c) zoned lots fronting Oriana Close as ‘deferred matter’ until such time as they could be re-exhibited with the proposed residential zoning.

- **25 September 2007** – Parliamentary Council re-issues Opinion on DLEP36, as amended to address the s69 authorisation conditions referred to above.
-

- **October 2007 to September 2008** – Davglade Pty Ltd enters into further discussions with Council to amend the VPA in order to:
 - a) reflect changes in corresponding planning legislation; and
 - b) ensure timing for dedication of the proposed 6(a) land to Council is better integrated with the project application process under Part 3A of the EP&A Act.
- **11 September until 10 October 2008** – amended VPA re-exhibited in accordance with the EP&A Act and Regulations.
- **21 October 2008** – Council adopts amended VPA in connection with DLEP36. A copy of the adopted VPA and DLEP36 can be viewed in Attachment 'A' and Annexure 'A' of this report, respectively.
- **4 November 2008** – Council receives letter from Davglade Pty Ltd requesting a change in the timing of payments to be made under a separate 'Deed of Agreement for Temporary Drainage Works' to coincide with the issuing of staged subdivision certificates (rather than up-front payment of \$256k upon execution of Deed). The Deed originally was prepared to formalise future funding obligations for the ongoing maintenance and monitoring of the drainage system (ie. once completed and handed over to Council)
- **December 2008 to present** – Council receives letter from Department of Planning requesting that 'Deed of Agreement for Temporary Drainage Works' be converted into a formal Planning Agreement (PA) pursuant to s93F of the Act, preferably by combining with the VPA adopted by Council on 21/10/08 (refer to corresponding bullet point above). The Department's letter also requests changes to certain VPA provisions relating to the future application of s94 contributions. Further work has since been undertaken in this regard.

In relation to the last two bullet points above, it should be noted these matters have prevented Council from executing both the VPA and Deed, and in turn from forwarding DLEP36 to the Minister for gazettal.

PURPOSE OF VOLUNTARY PLANNING AGREEMENT

As mentioned in the history above, Council adopted the original VPA between Davglade Pty Ltd and GLC along with Draft LEP Amendment No. 36 (DLEP36) on 26/09/06. The aim of the VPA was to ensure the following key outcomes:

1. Dedication of the land proposed to be zoned *6(a) Open Space & Recreation* (approx. 9ha) within a specified timeframe following gazettal of DLEP36, with no risk to Council of being served an acquisition notice under clause 20 of Great Lakes Local Environmental Plan 1996;
2. Recognition of Section 94 credit (at a future DA stage) for the 2000m² Neighbourhood Park that forms part of the transferred land referred to above; and
3. Enforceability of obligations through the EP&A Act.

In relation to '1.' above, the *6(a)* land to be dedicated to Council contains both fauna habitat and corridor values, while a minor portion (2000m²) is identified for future active open space., The principal intent of the VPA is to facilitate the transfer of this land to Council within 24 months from the date of Gazettal of LEP36.

The VPA was subsequently amended, exhibited and re-adopted by Council (in connection with DLEP36) on 21 October 2008.

PURPOSE OF DRAFT DEED OF AGREEMENT

As reported to Council's 26 September 2006 Ordinary Meeting, future development of the subject land must comply with Council's "no net increase" water quality objective in order to protect the long-term health of Pipers Creek. In this regard Council must ensure strict implementation of the treatment measures recommended in the alternative stormwater strategies for this catchment. Council also must ensure that higher ongoing maintenance and renewal costs associated with the stormwater treatment facilities proposed on Lot 6177 DP 1099599 do not unreasonably impact on its financial position. To address these matters GLC and Davglade Pty Ltd agreed to enter into a Deed of Agreement for the purpose of formalising future funding obligations for the ongoing maintenance and monitoring of the drainage system (ie. on the subject land).

Although a VPA could have provided an equally effective mechanism for achieving these outcomes, it was Davglade's position at the time that the statutory public exhibition of a new (or amended) VPA would unnecessarily delay the gazettal of DLEP36. Council therefore agreed to enter into a separate Deed to address how the monitoring and maintenance of the final completed drainage system would be funded.

The final Deed required Davglade Pty Ltd to provide Council with a Bank Guarantee of \$157,000.00 (exclusive of GST) and a separate payment of \$233,600.00 (exclusive of GST) for monitoring and maintenance of the drainage system. Both payments were required to be made immediately upon execution of the Deed by both parties. However the Deed was never formally executed and hence no money was ever exchanged.

DEPARTMENT OF PLANNING ADVICE REGARDING VPA & DEED

In December 2008 Council received the following advice from the Department of Planning in relation to the Planning Agreement and draft Deed referred to above:

- *"The Deed of Agreement is required to be converted into a Planning Agreement (PA), as it fits within the definition of a PA under section 93F(1) of the Environmental Planning and Assessment Act 1979 ("the Act").*
- *Pursuant to section 93F(3A) of the Act as the Minister is not a party to the PA, the PA cannot validly impose any terms or conditions which operate to exclude section 94 contributions that would be deliverable by Davglade under Council's section 94 Open Space Plan. Please note it is still open to the Minister to determine not to impose any section 94 conditions relating to open space.*
- *It is recommended that the existing PA be amended to remove any provisions which operate to exclude or discount the application of section 94 of the Act; and to incorporate the Deed of Agreement provisions into the existing PA."*

As a result of the Department's advice both the adopted VPA and draft Deed have now been consolidated into one overall Planning Agreement (PA), which incorporates further amendments as agreed between both parties. In addition, the relevant PA wording has been amended to remove any provisions which operate to exclude or discount the application of section 94 of the Act.

All further changes to the draft PA (which were not part of the original Deed & adopted VPA) were made with the agreement of the solicitors acting for both parties. A copy of the draft consolidated PA is contained in Attachment 'B'.

KEY ELEMENTS OF CONSOLIDATED PLANNING AGREEMENT (PA)

The key features of the latest draft consolidated PA, including new changes introduced, are outlined below.

- a) The agreement takes effect on the date it is made and formally executed by both parties (clause 3.1).
- b) Either party may rescind the agreement if the gazettal of LEP36 takes longer than 12 months from the date the agreement is executed (clause 3.2). This gives each party the opportunity to reconsider its options if the Minister does not agree to the gazettal of DLEP 36 within a reasonable period of time.
- c) The land to be zoned 6(a) (Open Space & Recreation) must be dedicated to Council within 24 months of DLEP 36 being gazetted (clause 4.3.1). The period between gazettal and dedication is intended to allow sufficient time for *Project Approval* by the Minister under the Part 3A of the Environmental Planning & Assessment Act 1979. It will also allow the opportunity for any necessary stormwater management works to be constructed on the proposed 6(a) land while it is still in Davglade's ownership, which may become complicated once it has transferred to Council.
- d) As part of any staged subdivision application Section 8 requires the Developer to provide a Drainage System that achieves the water quality objective of "no further increase in pollutant loads" entering Pipers Creek from the subject land (within the L Leg catchment), in accordance with in the Document titled "*Review of Stormwater Management Strategy for "L" Leg Catchment-South Forster*".
- e) **(NEW)** If approval for the Development is granted (ie. by the Minister), Section 9 requires the Developer to provide monetary payments to Council for the future maintenance and monitoring of the drainage system to be constructed on the subject land. Four instalments totalling \$233,600 (excl GST) will be made when the first subdivision certificate for each stage of the development is issued (clause 9.1).

The previous Deed required the Developer to make payment of \$233,600 immediately upon execution, however this was considered financially onerous under the current economic environment and given that Council cannot use such payments toward future maintenance and monitoring until after it has accepted "handover" of the drainage system (ie. only after 80% development of the site).

Note: The Developer may ask Council to review this amount if the scope of the work required for future maintenance and monitoring of the Drainage System is varied as a result of a revised stormwater strategy being adopted for the subject land or catchment, or as a result of part or all of a Raingarden being no longer required by the Council.

- f) **(NEW)** Section 11 prevents the Developer from transferring to another person ("the transferee") the whole or part of the 2(a) Residential Land before the PA has been registered on the title to the subject land (Lot 6177 DP 1099599).

The previous Deed allowed the Developer to transfer the whole or part of the Residential Land to another person at any time during the life of the Deed (ie. until its obligations had been completed), but only on the proviso that such transfer/s would be subject to Council approval.

- g) Section 12 requires certification of the stormwater management facilities by the General Manager before such facilities can be transferred into Council's ownership (for future operation, maintenance, etc).
- h) Section 17 provides the key enforcement mechanism to ensure that dedication of the land occurs within 24 months of DLEP 36 being gazetted. It does this by requiring the Developer to provide Council with all necessary title/transfer documentation on the date the PA is executed, which is to be held (by Council) as security for the performance of Developer's obligations imposed by clauses 4.2, 4.3 and 4.4.

So if dedication of the 6(a) land is not made by the Developer within the 24 months of Gazettal, then Council is entitled to lodge the title/transfer documents for registration at Department of Lands (LPI).

- i) **(NEW)** Section 18 requires the Developer to provide Council with a Bank Guarantee for \$180,000 (excl GST) upon the issue of the first subdivision certificate for any part of the Development. The Guarantee is a form of security to ensure all drainage works (including maintenance works) are carried out by the Developer in accordance with the Agreement and will be released only after Council accepts dedication of the completed drainage system.

The previous Deed required the Developer to provide the Bank Guarantee immediately upon execution, however this was considered financially onerous under the current economic environment.

Note: Upon the issue of the first subdivision certificate for any part of the Development, the Developer may ask Council to review the Bank Guarantee (at the Developer's expense) to determine if there has been any variation to the extent of the Drainage Works required to be performed by the Developer under this Agreement. The outcome of this review may result in a variation to the Bank Guarantee amount.

- j) During the period between gazettal of LEP36 and dedication of the 6(a) land, Council is protected from any claims against compulsory acquisition under clause 20 of Great Lakes Local Environmental Plan 1996 (refer to clause 17.9 in PA).
- k) Section 19 enables easements to be created over and/or works to be carried out by the Developer on the 6(a) land for the purposes of the development of that part of the Land that is rezoned 2(a) Residential (Low Density Residential), subject to General Manager's approval.

Council will need to re-exhibit the amended draft PA (as contained in Attachment 'B') in accordance with the EP&A Act and Regulations.

FURTHER CHANGE TO DRAFT LOCAL ENVIRONMENTAL PLAN – AMENDMENT NO. 36 (DLEP 36)

DLEP 36 was originally adopted by Council on 26 August 2003.

After accepting an offer by the Developer (November 2005) to enter into a Voluntary Planning Agreement (VPA) in connection with DLEP36, Council placed both documents on exhibition (8/12/05 – 27/01/06) and subsequently adopted them on 26 September 2006. These documents were further amended, exhibited and re-adopted by Council in October 2008. Councillors are referred to the 21/10/08 Ordinary Meeting report for details of the amendments made.

As outlined in the 'history' section of this report, Council received written advice from the RFS (dated 19 July 2007) supporting the future rezoning of these lots for residential purposes subject to certain bushfire protection conditions being satisfied. As a result of this advice DLEP 36 (as adopted) was amended to identify the two 1(c) zoned lots fronting Oriana Close as '*deferred matter*' until such time as they could be re-exhibited in the new comprehensive LEP with the proposed residential zoning. Council has since been made aware that the new LEP is unlikely to be exhibited before late-2011 and therefore it would be appropriate to re-exhibit DLEP36 (together with the amended draft PA) to show the proposed 2(a) residential zoning over the lots fronting Oriana Close (see diagram below). The re-exhibition will also allow for public comment in this regard.



A copy of the amend DLEP36 (for re-exhibition) is contained in Annexure 'B'.

CONCLUSION

This report presents an amended draft Planning Agreement (PA) in connection with the rezoning of Lot 6177 DP 1099599 (subject land), which adjoins The Southern Parkway in South Forster. The amended PA facilitates the dedication of proposed 6(a) land to Council for conservation/open space purposes and also formalises future funding arrangements for the proposed water management system on the subject land. This report also presents an amended draft LEP Amendment No. 36 (DLEP36), which seeks to rezone the subject land from 1(c) (*Future Urban Investigation Zone*) to part 2(a) (*Low Density Residential Zone*) and part 6(a) (*Open Space and Recreation Zone*). The main change to DLEP36 (since adoption on 21/10/08) is the replacement of 'deferred matter' with a proposed residential zone over the two 1(c) zoned lots fronting Oriana Close, as reflected in the zoning map in Annexure 'B'. It will be necessary to exhibit both of these documents concurrently for a period of not less than 28 days.

RECOMMENDATION:

1. That Council, in relation to Lot 6177 DP 1099599, resolve to exhibit the following statutory planning documents concurrently for a minimum period of 28 days:
 - draft Planning Agreement between Davglade Pty Ltd and Great Lakes Council, as amended and contained in Attachment 'B' to this report;
 - draft Amendment No 36 to Great Lakes Local Environmental Plan 1996, as amended and contained in Annexure 'B' to this report.
2. That following the exhibition of the draft planning documents referred to above, a report be presented back to Council for consideration of submissions and final adoption.

5 PES - Draft Development Control Plan No. 45 - Seal Rocks Coastal Hamlet

Index: SP-DCP-45; DCP Review 2007 Project
Author: Senior Strategic Planner - Alexandra Macvean
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

The purpose of this report is to:

- (i) consider submissions received in response to the public exhibition of the draft Development Control Plan No.45 – Seal Rocks Coastal Hamlet;
- (ii) document any proposed amendments to the document as a result of public submissions or as a result of changes to relevant legislation; and
- (iii) recommend adoption of the amended development control plan.

SUMMARY OF RECOMMENDATION:

That Council adopt the final draft Development Control Plan No.45 – Seal Rocks Coastal Hamlet and forward a copy of the final adopted document to the Department of Planning.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

The final draft Development Control Plan No.45 – Seal Rocks Coastal Hamlet shall supersede Development Control Plan No.30 – Residential Urban Areas within the study area.

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Summary table of submission issues raised during public exhibition

LIST OF ATTACHMENTS:

- A: Draft Development Control Plan No.45 – Seal Rocks Coastal Hamlet with recommended amendments in response to submissions
- B: Submissions received during public exhibition

Due to its large size, Attachment 'B' is available for review by Councillors and Senior Staff as a paper conservation method. Copies of individual submissions may be made available to the public, upon request, subject to consideration of privacy matters.

REPORT:

The draft Development Control Plan (DCP) has been prepared as a part of Stage 1 of Council's DCP Review 2007 Project. Stage 1 of the Project is aimed at providing:

- a comprehensive control plan for development within Seal Rocks;
- review and expansion of the Stroud Heritage DCP to include subdivision controls; and
- the preparation of Single Dwelling House & Dual Occupancy provisions for areas not covered by place-based plans.

The focus of this report is on Draft DCP No. 45 - Seal Rocks Coastal Hamlet, while the draft 'Amended Stroud Heritage' and 'Single Dwelling House & Dual Occupancy' development control plans will be presented to Council in separate reports.

PUBLIC EXHIBITION:

Draft DCP No. 45 - Seal Rocks Coastal Hamlet was adopted by Council and placed on public exhibition for a period of fifty-two (52) days from Wednesday, 26 August 2009 to Friday, 16 October 2009.

The draft document was available at Council's Administration Building in Forster and the Tea Gardens District office. An electronic version of the draft DCP was also made available on Council's website.

PUBLIC EXHIBITION SUBMISSIONS:

A total of 11 public submissions were received during the public exhibition period, nine (9) from the public and two (2) from government agencies. A detailed internal Council review of the draft document was also undertaken during the exhibition period.

The matters raised within the submissions and internal review are documented in detail within the summary table contained in Annexure 'A' of this report. In order to address these matters in a logical and efficient format, they have been presented in the same order as the 'Contents' section of the development control plan (as exhibited).

A summary of proposed amendments to the DCP design controls in response to public submissions is provided below. These are presented in the same order as the 'Contents' section of the final draft development control plan contained in Attachment 'A'.

General DCP Matters

Submission Issue No. 1

'Whilst I concur with the aims of the DCP to "maintain the high level of amenity enjoyed in Seal Rocks and to protect the inherent natural beauty of the locality", these measures must be applicable to adjoining land proclaimed for residential/ environmental tourism development under current ownership of the FLALC.'

'There needs to be mention in the plan of the Council's attitude to possible development of the large tract of aboriginal land adjacent to Seal Rocks village. There should be a statement indicating what kinds of development the Council thinks appropriate or desirable (if any) under the present zoning regime and what Council's attitude would be if efforts were made to change that zoning to residential development for example. This is too big a parcel of land for Council to ignore in a development plan designed to take care of the future needs of Seal Rocks.'

Response to Submission

The DCP is only intended to apply to the future development of land within the existing 2 Village Zone of Seal Rocks.

The surrounding land is zoned a combination of 5(a) Commonwealth Purposes, 6(a) Open Space and Recreation, 7(a) Environmental Protection, 7(b) Conservation and is situated outside of the study area to which the DCP provisions apply (irrespective of ownership).

These lands have been excluded from the provisions of the development control plan because they are not identified in the Mid North Coast Regional Strategy (2009) or in any of Council's land release strategies for future urban or village expansion. Accordingly, neither the State Government nor Council have plans to rezone any land outside of the nominated DCP study area, for residential or tourism purposes.

Also, because this area represents a 'sensitive coastal location' under SEPP No. 71, the lodgement of a development application on any land within the zones detailed above, would most likely require the Minister for Planning's approval and adoption of a separate Master Plan over the entire site. Any application would also be assessed in accordance with the provisions of Great Lakes Local Environmental Plan (GL LEP) 1996, which are generally more restrictive than the provisions of the draft Seal Rocks DCP.

Submission Issue No. 2

'The DCP incorrectly classifies Seal Rocks as "Coastal Hamlet" instead of a "Fishing Village" and hence its title and all references to the village are incorrect. The DCP should be renamed "Seal Rocks Coastal Fishing Village.'

Response to Submission

The name has been derived from the NSW Coastal Design Guidelines (1997) which identify Seal Rocks as a "coastal hamlet". While the DCP name has not been amended, The 'Vision' and 'Structure Plan' sections of the DCP have been modified to incorporate recognition of the 'traditional fishing village' character of Seal Rocks, while also maintaining a reference to the identification of Seal Rocks as a 'coastal hamlet'.

Part 1 - Introduction

Submission Issue No. 3

'Figure 1 - Precinct 4 - The Forster Local Aboriginal Lands Council lots at the eastern end of Kinka Road appear not to have been included as part of the residential area. If these lots have the potential to be developed for residential use, they should be included and subject to the same controls and regulations as all other areas.'

Response to Submission

The subject allotments are currently zoned 7(b) Conservation under Great Lakes Local Environmental Plan 1996. Should any application be lodged on land within this zone it would be assessed in accordance with the provisions of GL LEP 1996, which currently requires a minimum lot size of 40Ha for the development of dwelling-houses in the 7(b) zone. Refer also to the above response for 'Submission Issue No. 1'.

Submission Issue No. 4

Figure 1 - Three properties fronting Horgan Place have also been incorrectly identified in Figure 1 as being included in the study area of the DCP. These properties are zoned 7(b) Conservation under GL LEP 1996 and therefore should be excluded from the provisions of the DCP.

Response to Submission

Figure 1 has been amended to exclude three Horgan Place properties owned by Department of Land and Water Conservation and zoned 7(b) Conservation.

Part 2 - Structure Plan

Submission Issue No. 5

'The DCP incorrectly classifies the shop as the 'Social Hub' of the community. The true social hub is the fishing sheds on Kinka Road. The DCP should be amended to nominate the fishing sheds on Kinka Road as the social hub of the community.'

Response to Submission

The shop on the corner of Kinka and Thomas Roads was identified as the social hub by the community during the two community meetings held in Seal Rocks. The DCP has been amended to reflect that both the shop and fishing sheds provide locations for social gatherings in Seal Rocks.

Submission Issue No. 6

The Crown road at the eastern end of Boat Beach and the property at the eastern end of Boat Beach outside of precinct three, are incorrectly labelled as 'community use on the Structure Plan.

Response to Submission

Agreed, the green shading over these areas shall be removed from the Structure Plan diagram.

Part 3 - Site Planning Controls for All Developments

To ensure consistency between the Seal Rocks and other recent development control plans adopted by Council, an Integrated Water Management section shall be incorporated into the Seal Rocks DCP which states:

Integrated Water Management

All proposals for development are to implement an integrated approach to water management which:

- Promotes the efficient use and reuse of water;
- Minimises the adverse impacts on the natural water cycle;
- Takes into account site constraints and hazards; and
- Complies with relevant water storage, on-site sewage management and stormwater guidelines and policies.'

In reviewing their original requirements Council officers have made the following amendments (as shown underlined for new text or crossed out for deleted text) to the 'Environmental Hazards' section:

Sea Level Rise and Coastal Erosion

Amend second bullet point to read:

- "For proposals within the Kinka Road Escarpment, a report from a suitably qualified geotechnical engineer and an engineer specialising in coastal marine processes is to certify that the geotechnical and physical stability of the escarpment lands is acceptable and is not compromised by the proposed development and to determine suitable measures for protection of the building against land slip, coastal erosion, changes in storm frequency and intensity and sea level rise is required."

Bushfire

The second bullet point should be split into two separate requirements:

- Applicants are to ensure that any bushfire hazard requirements (i.e. Asset Protection Zones) do not encroach upon any ~~proposed landscaping or adjoining land~~ and avoids or minimised intrusions into land zoned for environmental protection purposes.
- Applicants are to ensure that any proposed landscaping does not conflict with the performance of bushfire hazard requirements (i.e. Asset Protection Zones) and that within Asset Protection Zones, appropriate plant species are selected (i.e. fire retardant plants) and separations are achieved within proposed landscaping, whilst also achieving adequate and reasonable screening, landform protection and native vegetation enhancement outcomes.

In reviewing their original requirements Council officers have made the following amendments (as shown underlined for new text or crossed out for deleted text) to the 'Effluent Disposal' section:

The development of land for residential, retail, commercial or industrial use based on an effluent pumpout system (tanker removal) will not be permitted by Council where:

- a) an existing dwelling/building is operating a system of sewage management with on-site disposal that has been determined by Council to be no longer functioning in a manner considered appropriate due to environmental and/or public health related concerns; or
- b) an existing undeveloped allotment is less than 2000sqm in size and it has been determined by Council that the on-site disposal of effluent is not achievable and/or does not meet appropriate standards or guidelines.

The fundamental design of all OSMS must represent best practice management for both the treatment and disposal of the effluent.

Site specific constraints that have the potential to impact on the environmental or public health must be accounted for in the capability of the treatment system and the design of the land application area.

Council may refuse to ~~permit~~ development where it is determined that the environmental impacts and/or public health related risks are considered too great.

The design of the OSMS (including land application areas or disposal drains) must meet the requirements of:

- Great Lakes On-site Sewage Management Strategy;
- Australian Standard AS 1547:2000- Onsite Domestic Wastewater Management;
- Environmental Health Protection Guidelines- On- site Sewage Management for Single Households.

Any other guideline deemed relevant by Council officers, published by a recognised department/ organisation.

~~The location of the OSMS land application area must comply with the prescribed buffer distances detailed in Council's On-site Sewage Management Strategy. The prescribed buffer distances may be varied should it be determined appropriate to do so by Council staff.~~

The quality of treated effluent delivered to the land application area shall comply with the NSW Health Department requirements for secondary treated effluent as a minimum standard and must be disposed of via a subsurface disposal system. No surface disposal of treated effluent will be permitted.

Where no disinfection of treated effluent by chemical or physical methods has occurred, then effluent shall be disposed of no less than 300mm below the finished ground level.

Secondary treated effluent that has undergone an approved method of disinfection may be disposed of at a minimum depth of 150mm, ~~300mm~~ below the finished ground level, as approved by Council.

In accordance with the Local Government Act 1993 (s68C), an application to install, alter or construct a waste treatment device or human waste storage facility must be submitted to Council for determination prior to any works commencing.

~~The On-site Sewage Management System disposal area shall not be contained within or form any part of, the private open space or natural landscape areas of the site.~~

The discharge of un-treated greywater from any source to a waterway, watercourse (whether permanent or intermittent), stormwater drain, drainage channel or ground surface is not permitted.

The beneficial reuse of treated effluent within the property confines is encouraged and must be done so in a manner that reflects the provisions of this clause.

Part 4 - Controls for Residential Development

Submission Issue No. 7

Density and Subdivision:

Why are there subdivision controls when there are no vacant allotments in Seal Rocks?

Response to Submission

The future of development and redevelopment in any village location, including Seal Rocks cannot be predicted and subdivision and density provisions are included in all new locality-based development control plans to guide future development.

Submission Issue 8

'I am in favour of the thrust of the plan to inhibit large scale or over development on individual blocks so the 30% footprint goal is desirable, however this cannot work if 50% of each block is to be given over to native style vegetation - there is not enough room left (20%) to take care of other needs like tanks, septic systems, garbage holding area, decks etc. because landholders would not in fact be left with 30% of their block to build upon, the goal of small-scale, small footprint would be offset by applications to build more second storeys on homes which would be unnecessarily obtrusive and invasive.'

Response to Submission

Agree. After considering the combination of restricted lot sizes, topography, on-site disposal requirements and the high level of bush fire threat within Seal Rocks, it is recommended that the landscaping requirement be reduced from 50% to 30% within the development control plan.

Submission Issue No. 9

Site Cover and Landscaping:

'Ensure that all the criteria for landscaping, APZ, setbacks etc correspond with the information in the 'Planning for Bushfire Protection' and 'Standards for Asset Protection Zones' requirements as set by the Rural Fire Service'.

Response to Submission

In reviewing their original requirements, Council officers have included the following clause in the 'Site Cover and Landscaping' section to address this issue:

- 'Landscaping proposals shall give preference to the retention of native plants (including trees, shrubs and groundcovers) that exist on the land, where such retention is reasonable, safe and does not conflict with require bushfire hazard protection requirements.'

The Note shown at the bottom of Figure 6: Site Cover and Landscaping, has also been expanded to state:

All landscaping must give consideration to the provisions and requirements of the NSW Rural Fire Service 'Planning for Bushfire Protection 2006'.

Submission Issue 10

Site Cover and Landscaping

The provision that "Native vegetation and landscaping of less than 1.5m in width shall not be included in landscape area calculations" is unnecessarily stringent.

Response to Submission

Landscaping provided in areas less than 1.5m wide are not generally viable and therefore, while smaller areas may exist, they should not be taken into account when calculating the minimum 30% (reduced from 50%) landscaping requirement.

Submission Issue 11

Height

Concerned that the height control (upper most habitable level) at Max 5.1m to floor level above gradients of 1:6 is too high to expose undercrofts (could be 2.5m high). Max 4.5m suggested.

Response to Submission

Given the variable nature of sites and topography within Seal Rocks a more general control shall be incorporated which states: 'The undercroft of any building should be minimised wherever possible.' (refer to p16 of DCP)

Submission Issue 12

Setbacks

The rationale behind additional side and front boundary setbacks based on different precincts is not provided within the document. The side setback should be a uniform 1.5m (plus formula) for the whole village.

Response to Submission

It is agreed that inadequate explanation or justification is provided to support the variations in setbacks and therefore it is recommended that the setback provisions be standardised across the Precincts. (refer to p16 of DCP)

Submission Issue 13

General Building Design

'Are the material recommendations in the Controls compatible with the requirement for the 'selection of materials and method of construction must have regard to bushfire hazard and protection' requirements?'

Response to Submission

In consideration of the building design guidelines (p18 of DCP) and their appropriateness in a location such as Seal Rocks, rather than amend the Controls, **it is recommended that the Objective be modified:**

'To provide a high quality design of buildings suited to this visually sensitive coastal hamlet and bush fire prone location.

Submission Issue 14

General Building Design

'Surely there is no need to make reference to 'having the front door facing the primary street' considering the function and layout of this coastal village. High quality sensitive design should not be determined by street frontage but by ecologically sustainable design.'

Response to Submission

It is considered a reasonable requirement for dwellings to have orientation to the street given the positive benefits this can provide to establishing a cohesive neighbourhood, passive surveillance to reduce crime, and an appealing urban environment. With careful design this orientation requirement should not prevent the achievement of ecologically sustainable and energy efficient design and it is also noted that the majority of dwellings within Seal Rocks already comply with this requirement.

Submission Issue 15

General Building Design

'Eaves should not be prescribed as windows can be more effectively protected by awnings and also reduce overshading of neighbours.'

Response to Submission

To encourage the provision of eaves without making this a mandatory requirement the clause has been amended as follows:

'Eaves are to be a minimum of 600 mm in width to the north, east and west of external perimeter or 70% of external walls wherever possible; refer Figure 8 to aid environment performance of buildings.'

Submission Issue 16

General Building Design

'To provide flexibility of design in response to site constrains modify:
General Building Design - 'Building floors to be elevated with concrete slab on ground construction minimised where possible'.

Response to Submission

This provision has been deleted in its entirety to reflect the need for individual and innovative design on those allotments within Seal Rocks which have a highly variable topography, but are all subject to extreme bushfire threat.

Submission Issue 17

Precinct Character (p20 of DCP):

- 'Reference to specific colours and hues of buildings is inappropriate and should be removed.
- Precinct 1 /Thomas Rd – the photo reference is not the best for exposing bulk form with a sheer 3 level facade and undercroft. street trees and verge are critical to retain any visual amenity along Thomas Road.
- Precinct 2 Gateway – Perhaps symbolic centre of Seal Rocks rather than "traditional character", but the ever increasing concern is helping to define an arrival reference point and orientation [Integrated with NPWS] and safety issues with the only intersection involving cars/ trailers/ buses/ retail service'

Response to Submission

These statements and the sample photographs in the DCP (p20) reflect the existing style and pattern of development in each of the precincts.

Precinct 1 / Thomas Road – Agree, an alternative photographic example shall be sought.

Precinct 2 Gateway - DCP to be amended by deletion of 'blues and yellows'. 'Light and bright colours' is however, considered to reflect existing colours of development in this location and shall be retained. It is noted that the shop picture does illustrate brown walls, but the Precinct also incorporates surrounding dwellings which do have a lighter colour palette.

Precinct 3 / Kinka Rd Escarpment – DCP to be amended by deletion of 'blues and yellows' and 'and reflective'.colours. 'Light colours' is considered to reflect existing colours of development in this location and shall be retained.

Submission Issue 18

Fencing and Walls (p22 of DCP):

'Most owners in Seal Rocks avoid the erection of boundary fences. Can some mention be made of the preference for adjoining neighbours to forgo the construction of fences if at all possible depending on APZ retaining and gradient considerations'.

Response to Submission

The first bullet point in "fencing and Walls' has been expanded (new text underlined) to reflect both the Objective of this section and comments from the public:

- No fencing is permitted in the front setback area (i.e. within 6m of the primary street.). There is a preference for no fences to be constructed on any property boundary to maintain the open character of Seal Rocks.

Submission Issue 19

Car Parking and Access (p23 of DCP):

'The majority of housing in Seal Rocks is available for holiday letting and most does not provide sufficient on-site parking for multiple vehicles. A minimum of two on-site parking spaces should be provided for every new development no matter what size the gross floor area.'

Response to Submission

This input has been consistent throughout the community consultation phases of the development control plan preparation process. Where there are no clear guidelines currently for the development of single dwelling houses and the associated provision of parking in Seal Rocks, the draft plan proposes clear guidelines on the provision of car parking facilities for each dwelling constructed in Seal Rocks. The new controls apply irrespective of whether the dwelling is undertaken as a knock-down-rebuild or additions and alterations to an existing structure. All dwellings shall be required to have at least one covered car parking space and dwellings in excess of 125sqm shall be required to provide two spaces (one covered). It is anticipated that these controls will alleviate some of the existing parking pressures by requiring a reasonable parking provision for each dwelling.

Submission Issue 20

Shared Road Access (p24 of DCP):

'DECCW only consider applications for access agreements through national park estate if there are no other options. At Seal Rocks all the private property which backs onto national park estate has existing viable access. It would be preferred if this statement could be removed from the draft DCP as it is an unlikely option.'

Response to Submission

Agree. The statement shall be removed from the DCP in accordance with this advice.

Part 5 - Other Developments

No submissions were received on this matter.

Appendix A - Suitable plant species for landscaping

Submission Issue 21

'The current term for 'fire retardant' plant species is 'low flammability' and it is recommended that this term be used in the DCP.'

Response to Submission

Agree. The term 'fire retardant' shall be replaced within the DCP (Appendix A) in accordance with this advice.

CONCLUSION

Minor amendments have been incorporated into the draft development control plan following consideration of issues raised in public submissions. These amendments do not materially change the intent of the document, which is to encourage high quality design and development within the locality. As a result it is recommended that the final draft Development Control Plan attached to this report, be adopted for implementation.

RECOMMENDATION:

It is recommended that Council:

- A. Adopt Development Control Plan No.45 – Seal Rocks Coastal Hamlet for implementation, as contained in attachment 'A' to this report.
- B. Forward the adopted Development Control Plan No.45 to the Department of Planning in accordance with the provisions of the Planning Reform Fund Memorandum of Understanding.

DIRECTOR ENGINEERING SERVICES

6 ES - Alcohol Free Zone John Holland Park

Index: Public Health - Alcohol Free Zones

Author: Manager Parks & Recreation - David Bortfeld

Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

This report deals with a proposal to make John Holland Park, Forster, an alcohol free zone due to ongoing anti social behaviour.

SUMMARY OF RECOMMENDATION:

- a) John Holland Park be made an Alcohol Free Zone on Australia Day for the next 3 years with a review of this condition being undertaken prior to expiration of that period.
- b) That Council advertise the proposal to create an ongoing 24 hour Alcohol Free Zone across John Holland Park under the provisions of Section 632 of the Local Government Act.
- c) If at the close of the advertising period no submissions are received, the proposal be adopted and Council erect appropriate alcohol prohibition signage.
- d) If submissions are received a further report is to be presented to Council for consideration.

FINANCIAL/RESOURCE IMPLICATIONS:

The cost for additional signage and administration can be covered within the existing budget.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

The Local Government Act includes provisions under Section 632 that allows Council to identify usage restrictions for public reserves.

LIST OF ANNEXURES:

- A: Correspondence from Manning/Great Lakes Command
B: Correspondence from Ronald McDonald Beach House Forster
C: Location Map

LIST OF ATTACHMENTS:

Nil

REPORT:

Background

Council is in receipt of requests from Manning/Great Lakes Police Commands Licencing Coordinator and the Founding Chairman of Ronald McDonald Beach House, Forster to make John Holland Park, Forster an alcohol free zone. (Copies are attached as Appendices A & B). The basis for these requests is the ongoing anti social behaviour, large gatherings, theft and vandalism being experienced in the reserve adjacent to Forster Beach Caravan Park and the Ronald McDonald Beach House complex. The mass youth gathering and associated issues from this years Australia Day Celebrations are highlighted as the major concern within the Manning/Great Lakes Command's correspondence.

Location

John Holland Park is located on the eastern side of the Forster Tuncurry Bridge between Forster Boat Harbour and residential allotments on Reserve Road as shown on the map in appendix C.

The Park has infrastructure and is maintained to encourage passive recreation and small gatherings. There are shelters, bbq's and toilets located on the site and the area is heavily used during school holidays for carnivals and other special events.

Current Management

As with many reserves in the Great Lakes area, there are identified restrictions on use. There is currently a ban on the consumption of alcohol between 8pm and 6am and the taking of glass into the Park. These restrictions have been established under Section 632 of the Local Government Act. In addition, there is an alcohol free zone in place over the car park and footpath areas 24 hours a day.

The banning of alcohol in public parks and reserves between 8pm and 6am is designed to allow appropriate use of the facilities whilst offering the police and Council's Ordinance Officers the ability to manage undesirable activities during the evening periods.

Manning/Great Lakes Command - Ronald McDonald House

A request to increase the alcohol prohibition in John Holland Park has been received from the local police and the founding chairman of Ronald McDonald Beach House, Forster. Both correspondences have highlighted anti social behaviour as being the main source of concern.

Information within the application made by Ronald McDonald Beach House outlined various incidents that have occurred over the last 12 months. A majority of the vandalism has occurred at the Ronald McDonald houses, the marina and caravan park. It is unclear at what time these incidences occurred however, it is understood that nightly police patrols are now being undertaken. The incidences identified in this correspondence are underpinning the request to have the area declared a total alcohol free zone.

Within the Police Commands' application, specific attention was directed at future Australia Day celebrations. The particulars of this event are well documented however, in summary, during this year's public holiday celebrations, a large number of youths congregated in the park which resulted in a massive police presence, significant anti social behaviour and an alienation of the Park for general community use.

The police have requested John Holland Park be made an alcohol free zone for 24 hours from 6am on Australia Day only.

Practicalities

There is currently an alcohol free zone over the car park and footpath areas. There is also a "dusk to dawn" ban on the consumption of alcohol over the park area with no glass permitted on the reserve at all times.

It is not clear what time the previous incidents of vandalism occurred or if they were undertaken by transient persons. It is also unclear if a total ban on the consumption of alcohol within the area will resolve the issue or move the concern to another location.

What is clear is that Council is now in receipt of a request from the Manning/Great Lakes Command for assistance in managing a potential gathering next Australia Day. It is also apparent the principles of the Ronald McDonald Family Retreat are being undermined by anti social activity in the area.

RECOMMENDATION:

- a) John Holland Park be made an Alcohol Free Zone on Australia Day for the next 3 years with a review of this condition being undertaken prior to expiration of that period.
- b) That Council advertise the proposal to create an ongoing 24 hour Alcohol Free Zone across John Holland Park under the provisions of Section 632 of the Local Government Act.
- c) If at the close of the advertising period no submissions are received, the proposal be adopted and Council erect appropriate alcohol prohibition signage.
- d) If submissions are received a further report is to be presented to Council for consideration.

7 ES - Regional & Local Community Infrastructure Program (RLCIP)

Index: Grants & Subsidies - Regional & Local Government Infrastructure Program - Strategic Projects

Author: Director of Engineering - Ron Hartley

Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

The second round of funding under the Federal Economic Stimulus Package has been announced and Council must determine the projects to be funded.

SUMMARY OF RECOMMENDATION:

That the recommended program be adopted.

FINANCIAL/RESOURCE IMPLICATIONS:

The funding requires no matching contribution by Council.

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Letter from The Hon Anthony Albanese, MP
- B: Guidelines for \$100m grant program
- C: Guidelines for \$120m grant program
- D: Recommended Program

LIST OF ATTACHMENTS:

Nil

REPORT:

On 25 June 2009, the Federal Government announced the second round of the Regional & Local Community Infrastructure Program (RLCIP) in the total amount of \$220m. Formal advice has now been received from the Hon Anthony Albanese, MP in regard to Council's allocation.

The program is similar to the first round with \$100m being allocated to Councils on a formula basis and \$120m being for larger projects.

The guidelines for the program have now been received and Council must determine which projects to nominate for funding. Copies of the relevant sections of the guidelines are attached as Annexures B & C.

\$100m Program

Council's component of the \$100m is \$451,000. The guidelines for the program are attached as Annexure B to this report. These guidelines are similar to the previous program, with one notable exception. The previous program had an exclusion for toilet blocks which does not appear in the current guidelines.

Based on the guidelines and Council's current financial situation, Manex suggested that projects be selected on the basis that they would reduce Council's future expenditure either by undertaking proactive works or undertaking works that will eventually be required to be funded by Council. On this basis, the works were limited to public halls and sporting facilities.

It should also be noted that there were two projects which were part funded in previous Council budgets with this funding listed for revoting in 2009/10. These projects, Pacific Palms Community Centre re-roofing and Bungwahl Hall repairs have been included in the recommended program.

The program recommended by Manex is attached as Annexure D.

Also included in Annexure D is a list of projects considered but excluded because of the limited funding available.

\$120m Program

This program is similar to the previous \$550m program and requires projects to be in excess of \$1m and determined on a competitive basis.

Council will recall that the project nominated in the last round of this program was the Little Street Forster walkway, including the completion of the Memorial Drive Boardwalk, in the total amount of \$3.7m. This project was unsuccessful and a review of the successful projects indicates that a large percentage were for sporting facilities.

As indicated in the letter from Mr Albanese, applications are encouraged to address the needs of the local Indigenous population and environmental sustainability with a particular focus on green building technologies, design practices and operations.

On the basis of this suggestion and bearing in mind the lack of success with the Little Street project, Manex has recommended the extension of the Great Lakes Aquatic Centre, incorporating provisions for energy efficiency and sustainability.

This extension will provide for the dry area to be relocated from upstairs to ground level to provide greater access for mobility restricted persons, as well as an extension to this gym area. It will also allow for the aerobics area to be relocated upstairs and increased in size. The proposal also includes the provision of solar cells and other sustainability provisions to reduce the cost of operating the centre.

RECOMMENDATION:

- a) That Council adopt the program of works proposed in Annexure D to this report for submission under the Regional and Local Community Infrastructure Program.
- b) That Council endorse the submission of the extension to the Great Lakes Aquatic Centre as Council's project under the RLCIP Strategic Program.

8 ES - Monthly Works Progress Report

Index: Corporate Management - Administrative Matters - Works Depot
Author: Operations Manager - Robert Fish
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

Provides information on the progress of Council Works.

SUMMARY OF RECOMMENDATION:

That the information contained in the report be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

A: Monthly Operations Report

LIST OF ATTACHMENTS:

Nil

REPORT:

The following items are works projects that have progressed since the last monthly report presented to the September Strategic Workshop of Council. Also a one-page summary of general maintenance activities for November is attached for Councillor information.

Major Projects Completed Include:

- **Strand/Boundary Street Intersection Improvements, Forster:** Traffic safety improvements have been completed at this intersection in October. The works involved the installation of traffic islands on Boundary Street and the installation of painted median strips on each approach to the intersection. The improvements were completed for enhanced visual impact due the poor vertical alignment of the approaches to this intersection. Works were completed by contractors and Tuncurry Depot Service Requests and Heavy Patch teams.
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- **Green Point Drive Drainage, Green Point:** Works to improve drainage along Green Point Drive between the eastern limit of the village to midway between Bottlebrush Close and Sea Breeze Parade have been completed. Works undertaken include installation of a new drainage system, kerb and gutter and patching and sealing of the roadway fronting the new kerb and gutter. Works were undertaken by Tuncurry Depot Operations Heavy Patching and Concrete & Drainage Construction teams.
- **Coomba Road Rehabilitation, Coomba Park:** Works were undertaken in September to rehabilitate Coomba Road between Umina Avenue and Tallawalla Road in the village of Coomba Park. Works involved stabilisation of the existing road pavement followed by a gravel overlay to lift the road surface level and a spray seal. Works were completed by Tuncurry Depot Road Maintenance and Heavy Patch teams.
- **Booral Road Rehabilitation:** Works to restore deteriorated sections of the road pavement toward the eastern end of Booral Road were completed in October. Works involved stabilisation of the existing road pavement and a spray seal of the completed surface. Works were undertaken by Bulahdelah Depot Operations staff.
- **Marine Drive Cycleway Extension, Tea Gardens:** Construction of a cycleway to the west of the public wharf on Marine Drive was completed in September. Works involved stabilisation of the riverbank rock wall, installation of a concrete path and restoration of the grassed area adjoining the path. Works were undertaken by Tea Gardens Depot Operations staff and were funded under the Community Infrastructure Program.
- **Gravel Resheet The Branch Lane, The Branch:** Gravel resheeting works were completed in September along deteriorated sections of the Branch Lane. Gravel was supplied from a nearby commercial quarry. Following resheeting works the full length of the road was graded. Works were also undertaken to improve drainage along the road at selected locations. The completed work has made a significant improvement to the function and safety of the road. Works were completed by Stroud Depot Operations staff.
- **Gorton's Crossing Bridge, Stroud:** Works have been undertaken to enhance the structural integrity of Gorton's Crossing Bridge. An existing timber headstock was replaced with a new concrete headstock. Timber girders and decking in poor condition were also replaced. Works were completed by the Operations Bridge Maintenance team.

Major Projects in Progress:

- **John Wright Park Upgrade, Tuncurry:** Works commenced in July to upgrade John Wright Park. The project includes the upgrading of the car park, facilities and paths within the park. The car park area upgrade was completed in September. The facilities upgrade work is being funded through the Community Infrastructure Program and work is currently continuing on this. A cycleway will be installed along the park frontage linking with the bridge path in November. The cycleway forms part of the Coastal Cycleway route.
- **South/Bent Street Intersection Roundabout, Tuncurry:** Works have commenced on the construction of a roundabout at the intersection of South and Bent Streets in Tuncurry. The roundabout works are fully funded under the Federal Government Nation Building Program with the purpose of the project to improve safety at this location given the high number of accidents that occur. Works are due to be completed by December.
- **Palms Estate Water Treatment Devices, Forster:** Works have commenced in October to construct a series of stormwater filtration devices on pipe outlets into the drainage reserve in the Palms Estate between the Southern Parkway and Kularoo Drive. Works will be undertaken by Tuncurry Depot Operations Service Requests and Parks and Gardens teams. The works are part funded by the Catchment Management Authority.

- **Forster Keys Boatramp, Forster:** Refurbishment of the Forster Keys Boatramp will be undertaken in November. New concrete sleepers for the ramp have been cast. On completion of the boatramp works the car park area will be resurfaced. Works on the boatramp will be completed by the Operations Bridge Maintenance team.
- **Smiths Lake Skatepark:** Works commenced in August to construct a skatepark in Smiths Lake. Skatepark works are now complete with only completion of the surrounds of the park and earthworks on the adjacent sportsfield remaining.
- **The Lakes Way – Black Spot Project, South of Bungwahl:** Construction works have commenced on the realignment and widening of 1.1km of The Lakes Way approximately 1km north of Stoney Creek Road. This work is immediately to the south of road widening and pavement resurfacing which was completed in early 2006. The work has been designed to improve road safety at this location and is funded by the Federal Government Auslink Black Spot Program. Works are being undertaken by Tuncurry Depot Operations Road Construction team and contractors.
- **Jimmy's Beach, Hawks Nest:** Hall Contracting have completed sand replenishment of Jimmy's Beach during August and September. The work involved over 30,000m³ of sand being deposited along Jimmy's Beach to further protect the beachfront area. Landscaping and fencing work to stabilise the imported sand is now being undertaken by Tea Gardens Depot Operations staff.
- **Netball Court at Tea Gardens Skate Park:** Works are currently in progress constructing a netball court adjacent to the Tea Gardens Skate Park. Earthworks and turfing of the site have been completed with only topdressing and installation of netball posts remaining. Works are being undertaken by Tea Gardens Depot Operations staff.
- **Simmsville Road Reconstruction, Stroud:** Works were undertaken earlier in the year on the first stage of this project to upgrade an unsealed length of Simmsville Road. These works were from the sealed end of Simmsville Road in Stroud to the Stroud Landfill Facility. Further works will now be undertaken to reconstruct the section of Simmsville Road between the Landfill facility and the Mid Coast Water site. The design of the road has been amended along this section to minimise the impact on large trees within the road reserve. The works are being partially funded by Mid Coast Water and are being undertaken by Stroud Depot Operations staff.

Major Projects Proposed for the Next Month:

- **Bulahdelah Urban Rehabilitation Program:** Works will commence in late November on the Bulahdelah Urban Rehabilitation Program. Initial works to be completed include pavement stabilisation and sealing of sections of Crawford and Meade Streets in Bulahdelah. Rehabilitation works are also planned for Whimbrel Drive in Nerong.
- **Emu Creek Bridge Abutment Repair, Booral Road:** Pending the certification of a bridge design, works will commence on the replacement of the eastern abutment of Emu Creek Bridge. The abutment is currently in poor condition compromising the structural capacity of the bridge. The works will involve installation of a concrete footing with new steel piles and a headstock to be erected. These elements will then brace the existing abutment thereby taking the load from this component.

Community Infrastructure Program Update

Council's work schedule under this program was approved on 23 March 2009 with works required to be completed by 30 September 2009. Of the twenty-two projects approved under this program, works were completed on all projects by the end of September except the following:

- Ocean Baths Water Pump and Concrete Surrounds Upgrade, Forster
- John Wright Park Facilities Upgrade, Tuncurry
- Hawks Nest Community Centre Amenities
- Tennis Court Construction, North Arm Cove

Approval was received from the Department of Infrastructure, Transport, Regional Development and Local Government to extend the program for these projects to the 31 December 2009. Currently works only remain on the Ocean Baths and John Wright Park.

Minimbah Landfill Management Centre Update

Works were completed in September on the earthworks link between the Minimbah landfill site and Aerodrome Road. Works which have been undertaken in October include:

- Installation of security fencing at the entrance of the landfill access road off Aerodrome Road
- Installation of fencing of vegetation conservation zones at selected locations surrounding the landfill site
- Landscaping along the landfill access road
- Removal, stockpiling and mulching of cleared vegetation from the alignment of the upgrade of Glen Ora and Aerodrome Roads
- Construction of a box culvert on the landfill access road through a minor creek line.

Both the culvert construction and conservation area fencing work will continue in November. Further work is planned to be undertaken on Glen Ora Road and the internal access road to the landfill site later in 2010.

RECOMMENDATION:

That the information contained in the report be noted.

DIRECTOR CORPORATE & COMMUNITY SERVICES

9 CCS - Annual Financial Reports 2008/2009

Index: Financial Management
Author: Manager Finance - Gary Collins
Strategic Committee Meeting: 10 November 2009

SUMMARY OF REPORT:

Council's auditors RSM Bird Cameron have completed their audit of the 2008/2009 Financial Reports of Council in accordance with Section 415 of the Local Government Act 1993 and the body of this report provides a summary of Council's finances.

SUMMARY OF RECOMMENDATION:

That the information contained within this report be noted.

FINANCIAL/RESOURCE IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Presentation of the report in accordance with Section 471(1) of the Local Government Act 1993.

LIST OF ANNEXURES:

- A: Income Statement and Balance Sheet (a copy of Council's financial reports for 2008/2009 will be tabled at the meeting).
- B: Auditor's Reports.

LIST OF ATTACHMENTS:

Nil.

REPORT:

In order to satisfy statutory requirements Council's auditors RSM Bird Cameron have in accordance with Section 417(1) of the Local Government Act 1993, submitted their Audit Report for the year ended 30 June 2009.

A copy of the Auditors' Report is annexed hereto (Annexure B) and a full copy of the financial reports will be tabled at the meeting.

The audited results are in accordance with those previously reported to Council within its 2008/2011 Management Plan. The results that were reported to Council are in Council's Management Plan

format whereas the financial reports are submitted in order to satisfy external reporting requirements and to provide further information and assessments.

Arrangements have been made for the Auditor to be present at this meeting at 11.00am to address Council on this report.

In summary Council still maintains a sound financial position as at 30 June 2009 however Council has been previously advised via the Review Today Report that the level of funding required to maintain Council's infrastructure at a satisfactory level needs to be increased as well as the recent Morrison Low Long Term Financial Strategy which identified future year shortfalls in Council's finances.

RECOMMENDATION:

That the Auditor's Report be received and noted and the Auditors be thanked for their attendance.

Keith O'Leary
General Manager