



## 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

**6 OCTOBER 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* 8 September 2009
  4. Consideration of Officers' Reports:  
Director Planning & Environmental Services  
Director Corporate & Community Services.
- 9.30am - 10.30am Swimming Pools
- 10.30am - 11.30am Pacific Palms/Tea Gardens DCP
- 11.30 am - 12.30pm Civic Precinct Masterplan - Update
- 12.30pm - 1.15pm *LUNCH*
5. Urgent Business
  6. Close of Meeting

Organisational Structure workshop at 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:**

### **DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

#### **1 PES - Draft Development Control Plan No.39 - Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)**

**Index: SP-DCP-39; DCP Review 2007 Project**

**Author: Senior Strategic Land Use Planner - Alexandra Macvean**

**Strategic Committee Meeting: 6 October 2009**

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#### **SUMMARY OF REPORT:**

This is a supplementary report to that tabled on 8 September 2009, which considers the issues raised in oral presentations relating to the public exhibition of draft Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) and recommends adoption of the final amended development control plan.

#### **SUMMARY OF RECOMMENDATION:**

That Council adopt the final draft Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Boomerang Beach & Bluey's Beach) 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.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) shall supersede Development Control Plan No.30 – Residential Urban Areas and Development Control Plan No.26 – Boomerang Drive, Pacific Palms within the study area.
- Additional Section 149(5) certificate notation required for properties identified in Council's existing Coastal Hazard Policy.
- 'Part 5 - Additional Controls for Specific Sites' of the final Development Control Plan No.39 - Pacific Palms (Elizabeth Beach, Boomerang Beach & Blueys Beach) will also incorporate site specific development controls created in association with Draft Great Lakes Local Environmental Plan No.13 - Pacific Palms.

#### **LEGAL IMPLICATIONS:**

Nil.

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## LIST OF ANNEXURES:

- A: PES – council report and resolution from 8 September 2009 Strategic Committee meeting relating to Draft DCP No.39 Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)

## LIST OF ATTACHMENTS:

- A: Final Draft Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)

## REPORT:

This report should be read in conjunction with the report and resolution from the Strategic Committee meeting on 8 September 2009, as contained in Annexure 'A' of this report. The following matters were raised within the oral presentations at this meeting and are discussed in additional detail within this report:

- (a) Structure Plan - Clarification to the wildlife corridor and land use designation of land adjacent to the caravan park;
- (b) Building materials - promotion of lightweight materials reflecting existing or future character
- (c) Integrated housing and lot controls.
- (d) NSW Housing Code
- (e) Front fencing
- (f) Landscaping provisions
- (g) Side setback requirements

Although these matters were addressed within the report tabled on 8 September 2009, the original text has been further expanded upon below in response to the oral presentations.

### **(a) Submission/Oral Presentation Issue - Structure Plan**

Clarification to the wildlife corridor and land use designation of land adjacent to the caravan park is required.

#### **Response**

The Structure Plan within Development Control Plan No.39 - Pacific Palms has been appropriately amended to reflect the wildlife corridor and zoning pattern of land adjacent to the caravan park on Boomerang Drive.

### **(b) Submission/Oral Presentation Issue- Lightweight materials**

Promotion of lightweight materials not necessarily reflecting the existing character of the area.

#### **Response**

The NSW Coastal Design Guidelines (1997) and the North Coast Urban Design Guidelines (2009), which are guiding documents for the preparation of development control plans in areas such as Pacific Palms, encourage the use of lightweight materials, building design and construction, suitable to coastal settings. In particular, the North Coast Urban Design Guidelines state:

#### ***"12 SECTION C: BUILT FORM - URBAN DESIGN GUIDELINES***

*These guidelines identify key aspects of built form that contribute and respond to the local and regional character of North Coast settlements. These aspects should be encouraged in future development. They guide the provision of amenity for residents and pedestrians, and ensure the*

development of a variety of residential types, including mixed use developments, which contribute to the vibrancy and economic sustainability of the area.

### **Principles to apply to all housing types**

- Encourage elevated, lightweight construction in response to climate and breezes
- Provide flexible sun-shading devices, louvers and natural ventilation systems to allow passive environmental control
- Provide semi-sheltered outdoor spaces of usable dimensions to mediate between indoors and outdoors
- Establish building orientation towards street front in keeping with the local settlement pattern with consistent scale, materials and setbacks, whilst maintaining built form diversity and contributing to the settlement character
- Allow for wide gutters to handle heavy rainfall
- Ensure building elements are integrated into the design of the façade and overall form
- Amalgamation and subdivision of lots may be necessary to accommodate a desired change in density of development
- Allow zones for street-side planting to provide shade for pedestrians and parked cars and provide screening and enhanced privacy of residential lots
- Maintain generous footpaths separated from street by a grassed or landscaped median strip
- Install services in a discreet way; place major cables underground in preference to overhead wires in areas of higher density"

Despite these provisions, ongoing concern has been expressed regarding the promotion of lightweight materials within the draft development control plan. In response to these concerns it is recommended that the following modifications may be made to the General Building Design provisions:

#### *Controls (relating to lightweight materials only)*

- ~~Buildings are to be constructed predominantly of light weight materials such as weatherboards and/or timber and fibre cement, for external cladding. (DELETE)~~
- Selection of materials and method of construction must have regard to bush fire hazards and protection requirements. (RETAIN)
- ~~The use of materials such as concrete and masonry are to be minimised. (DELETE)~~
- The colour of materials is sympathetic to the natural setting of the locality. Highly reflective materials are not appropriate. (RETAIN)
- **Buildings use a balanced mixture of materials, including lightweight materials, reflecting the character of the locality. (INSERT)**
- ~~Lightweight materials are used for cladding as well as roofing where possible. (DELETE)~~
- ~~Where alternative materials are proposed the applicant must demonstrate how the alternative materials are consistent with character of the locality. (DELETE)~~

These amendments are proposed in order to reflect the General Building Design objective "To provide a high quality design of buildings suited to this sensitive coastal setting", while allowing flexibility in the selection of materials for development in the study area.

### **(c) Submission/Oral Presentation Issue - Integrated housing**

Opportunities for integrated housing are not provided within the development control plan. Any specific controls for Sites 1 & 2 should reflect integrated housing proposal provisions.

### **Response**

The 36-lot integrated housing proposal which has already been submitted with the Department of Planning for Lot 2 DP 862876 (one of the allotments identified in Site 1) shall not be affected by the draft development control plan as the application was lodged prior to the exhibition of the draft plan.

There is no objection to the inclusion of an additional clause which reflects the ability for integrated housing proposals to be considered within the Site Specific Control Sites.

It should be noted however that the provisions of draft DCP No.39 do not preclude or supersede the existing provisions of DCP 31 - Subdivision which state:

***"Residential lots less than 450sqm***

*Allotments less than 450sqm in area will only be permitted where those allotments are:*

- *Incorporated within an integrated housing development; or*
- *Created via subdivision of an approved existing multiple dwelling development.*

*In determining the suitability or otherwise of any subdivision application for small lots (less than 450sqm), the following matters will be taken into account:*

- *Cost of providing services and the capacity of existing services;*
- *The advantages of building to a boundary and using attached and semi-detached forms of housing;*
- *That adequate visual and aural privacy can be assured for each proposed dwelling; and*
- *That adequate provision is made for access to the sun and natural light for each proposed dwelling."*

Therefore no additional amendment to the draft development control plan is considered necessary to accommodate opportunities for either integrated housing or subdivisions for lots smaller than 450sqm, other than within the Site Specific Controls. In order to clarify this provision the 'Land and Development Covered by Plan' section (p.1) shall be modified to incorporate the following statement:

*"This DCP will prevail where there is any inconsistency with the minimum lot size requirements specified in DCP No 31 - Subdivision, for all areas except Site 1 and Site 2 shown on Figures 12 and 13 respectively."*

**(d) Submission/Oral Presentation Issue - NSW Housing Code**

The draft plan has "been effectively superseded" by the SEPP Exempt and Complying Development - NSW Housing Code.

**Response**

Approximately only 19% of properties within the 2 Village zone in the study area can potentially utilise the provisions of the NSW Housing Code, with the remainder excluded primarily due to their bush fire prone classification.

In addition, even if a land owner is able to use the NSW Housing Code because their land satisfies the SEPP exclusions, they must also be willing and able to design a dwelling which is fully compliant with the building design provisions of the Housing Code in order to obtain a fast-tracked approval.

The two primary differences between use of the NSW Housing Code's fast track approval and a Council development assessment process are:

- the requirements for a merits based assessment; and
- notification of potentially affected landowners prior to determination of an application.

Neither of these are a requirement of the SEPP Exempt & Complying Development - NSW Housing Code, but are required as part of the assessment of a development application under the Environmental Planning & Assessment Act 1979 and Regulations 2000.

Therefore, in consideration of the large number of properties which may be developed or redeveloped for low density residential purposes without the 'benefit' of the NSW Housing Code, Council has

developed a plan which reflects the structure and standards of the NSW Housing Code and other State Policies, but also contains development controls and objectives more appropriately tailored to the environment and pattern of development evident within the villages of Pacific Palms. Importantly the final plan reflects:

- the desired future character of the locality as expressed during community consultation and submissions to development applications;
- the evolving nature of development assessment in terms of built form, environmental protection and community expectations; and
- the natural and service limitations of the locality to accommodate a higher density of development.

In considering the implications of the NSW Housing Code the Council discussed the possible recommendation to seek exclusion for the study area of Pacific Palms, from the provisions of the Housing Code. Council has already sought exclusion for those areas of Pacific Palms identified as being subject to Coastal Hazard (Figure 4 of the DCP) and the Department has yet to provide a response to this application, which was sent five (5) months ago.

Should Council consider it appropriate to submit an additional exclusion application, it is recommended that this be undertaken following adoption of the development control plan, as part of the referral of the adopted document to the Department of Planning.

#### **(e) Submission/Oral Presentation Issue - Front fencing**

Concern was expressed by Council that the original provision of "No fencing is permitted in the front setback area (i.e. within 4.5m of the primary street)" had been removed from the final draft presented for adoption and replaced with the following control:

*"No solid construction fencing is permitted in the front setback area (i.e. within 4.5 m of the primary street boundary) e.g. full brick, colorbond, but allowing fences with minimum transparency of 50%."*

#### **Response**

The original statement, which effectively prohibits the construction of any fencing within the front setback of an allotment, was removed in response to community concerns regarding the lack of safe places and formal play grounds for the children of Pacific Palms.

In particular it was considered:

- Inappropriate for the development control plan to propose a prohibition; and
- Appropriate that this provision be amended to allow for front fencing, but recommending that these fences be of an open-style of construction.

The Fencing objective states:

*"To retain an open streetscape character"*

Should Council consider that the above objective accurately reflects the future desired character of Pacific Palms, and that it is necessary to have a clear recommendation that front fences are not encouraged, an amended Control provision may be incorporated which reads:

*"To retain an open streetscape character within the Pacific Palms, the preference is for no front fencing to be provided in the front setback area (i.e. within 4.5m of the primary street boundary). Where front fencing is proposed it must have openings which make it at least 50% transparent in surface area"*

The amended control provision would simply replace the corresponding fencing provision shown on page 23 of the DCP presented at the 08/09/09 Strategic Committee meeting (Attachment 'A').

**(f) Submission/Oral Presentation Issue - Landscaping**

The landscaping requirements and requirements for native vegetation at natural grade are not practical and exceeds 20% requirement of NSW Housing Code.

**Response**

While the plan reflects the structure and standards of the NSW Housing Code and other State Policies; it contains 'place based' development controls and objectives tailored to the particular environment and pattern of development evident within the Pacific Palms. This is also consistent with the *NSW Coastal Design Guidelines (1997)* which, in the case of coastal villages such as Pacific Palms, aim to promote development that reinforces the visual and environmental dominance of the surrounding landscape.

The consultation process and submissions have highlighted a need to reconsider the site coverage and landscaping controls and tailor these provisions to the needs of the residents of Pacific Palms.

Given the limited areas of playing fields and other formal recreation spaces there is a desire to have open play areas on private property to compensate. On this basis, a reduction in the 50% native vegetation area is considered to be justified and thus the minimum landscaping requirement for any site in the Pacific Palms study area was reduced from 50% to 30%.

It was also clarified that this landscaping was to be provided "*preferably with native vegetation at natural grade and a deep soil zone*" in recognition that this may not always be possible, particularly where sites have been previously modified.

The reduced landscaping areas continue to allow for the provision of private open spaces and other usable areas which may be vegetated with lawn or vegetable gardens. To further clarify that the provision of predominantly native flora applies only to those areas nominated for inclusion within the 30% landscaped area, it is proposed that the following provision also be amended:

*"Predominantly native flora from the local area is to be used in designated landscaping areas; with a maximum of 10% ~~can be~~ exotic specimen landscape plantings, subject to council's approval."*

**(g) Submission/Oral Presentation Issue - Side Setbacks**

A 1.5m side boundary setback and vegetative strip between the edge of the driveway and the property boundary is restrictive particularly in Newman's Ave where the lots are less than 15m wide.

**Response**

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.

The provision of a 1.5m vegetated strip between side boundaries and driveways is considered desirable to both screen and reduce hardstand driveway areas.

The side setback of 1.5m also will help provide a small landscape strip and/or access way along the side of buildings and importantly, provide an overall separation of at least 3m between neighbouring properties at ground level.

The incremental increases to the side boundary setback in response to increases in building heights also provide greater opportunity for: visual and auditory privacy; maintenance of views between

buildings; flexibility in design and construction of retaining walls for steep sites; and maintaining the existing sense of openness within the urban areas of Pacific Palms.

In areas where site frontages do not accommodate this, an alternative design may be submitted proposing a variation to this guideline, where the overall objectives of maintaining the bushland setting, privacy and views can still be achieved.

## **CONCLUSION**

As a result of issues raised in meetings held during the public exhibition period and in public submissions received, several minor amendments were incorporated into the draft development control plan prior to the 8 September Strategic Committee meeting. These amendments did not materially change the intent of the document which is to encourage high quality design and development within the sensitive coastal environment of Pacific Palms.

In response to the oral presentations made at the Strategic Committee meeting, four additional amendments to the draft development control plan are proposed:

- The Structure Plan is to be amended to clarify the wildlife corridor and zoning of land adjoining the caravan park on Boomerang Drive;
- The provision for integrated housing within the Site Specific Controls for Sites 1 & 2 are to be included;
- Additional clarifying information is to be provided regarding front fencing; and
- Clarification of the landscaping provisions.

These amendments are also considered to be consistent with the intent of the document which is to encourage high quality design and development within the coastal village of Pacific Palms. Therefore, it is recommended that the final draft Development Control Plan (as amended and attached to this report) be adopted for implementation.

## **RECOMMENDATION:**

It is recommended that Council:

- A. Adopt Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) for implementation, as contained in attachment 'A' to this report.
- B. Forward the adopted Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) to the Hunter & Central Coast Regional Office, Department of Planning.
- C. Amend Council's Section 149 (5) Certificate to include the following notation on all identified lots at Blueys and Boomerang Beaches:

*“All lots on the eastern side of Newman Avenue; 6, 8, 10 and 12 Blueys Way; 2, 4, and 6 Banksia Street Blueys Beach; and 112 - 124 Boomerang Drive Boomerang Beach are located on beachfront land which is subject to dynamic coastal erosion, sea level rise and recession.*

*Council has received state government funding to undertake a Boomerang Beach and Blueys Beach Coastal Processes and Hazard Definition Study. To date, consultants have not been engaged and it is expected that results and recommendations will not be available for at least 12 months. Future development options will be guided by the results of the study.”*

## **OPTIONAL**

- D. Forward the adopted Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) to the Housing Code Project Director, Department of Planning, seeking an exclusion from the State Environmental Planning Policy (Exempt & Complying Development) 2008 for the study area of DCP No.39.

## **2 PES - Draft Development Control Plan No.47 - Tea Gardens (Low Density Residential)**

**Index: SP-DCP-47; DCP Review 2007 Project**

**Author: Senior Strategic Land Use Planner - Alexandra Macvean**

**Strategic Committee Meeting: 6 October 2009**

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### **SUMMARY OF REPORT:**

This is a supplementary report to that tabled on 8 September 2009, which considers the issues raised in oral presentations relating to the public exhibition of draft Development Control Plan No.47 – Tea Gardens (Low density residential development) and recommends adoption of the final amended development control plan.

### **SUMMARY OF RECOMMENDATION:**

That Council adopt the final draft Development Control Plan No.47 – Tea Gardens (Low density residential development) 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.47 – Tea Gardens (Low density residential development) shall supersede Development Control Plan No.30 – Residential Urban Areas within the study area of Tea Gardens.
- Upon adoption of the final draft DCP No.47 – Tea Gardens (Low density residential development) it is recommended that DCP No.47 and the Tea Gardens provisions of DCP No.52 Tea Gardens-Hawks Nest Town Centres, be combined into one locality-based development control plan for Tea Gardens.

### **LEGAL IMPLICATIONS:**

Nil.

### **LIST OF ANNEXURES:**

- A: PES – Council report and resolution from 8 September 2009 Strategic Committee meeting relating to Draft Development Control Plan No.47 - Tea Gardens (Low Density Residential)
- B: Further submission received on 11 September 2009 regarding Community Title Management Plans within Draft DCP No.47 study area

### **LIST OF ATTACHMENTS:**

- A: Final Draft Development Control Plan No.47 - Tea Gardens (Low Density Residential)
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## REPORT:

This report should be read in conjunction with the report and resolution from the Strategic Committee meeting on 8 September 2009, as contained in Annexure 'A' of this report. The following matters were raised within the oral presentations at this meeting and are discussed in additional detail within this report:

- (a) Study area boundary - Promotion of lightweight materials in areas affected by existing community title requirements, promoting use of brick and tile materials
- (b) Relationship between draft development control plan and NSW Housing Code
- (c) Promotion of lightweight materials - inappropriate in areas affected by flood and bush fire; appropriate in proposed heritage conservation area and adjoining existing and proposed heritage items
- (d) Opportunities for integrated housing and smaller lot sizes, particularly on corner allotments are not provided within the development control plan

Although these matters were addressed within the report tabled on 8 September 2009, the original text has been further expanded upon below in response to the oral presentations.

### **(a) Submission/Oral Presentation Issue - Figure 1 Study Area boundary**

The concerns raised with regards to the study area boundary related primarily to the promotion of lightweight materials in areas affected by existing community title requirements, which promote the use of brick and tile materials. Additional information was provided on 11 September, detailed in full in Annexure 'B' to this report which states:

1. *"Suggested new outline of the application of DCP 47, which identifies recently developed approved subdivisions which we respectfully suggest, should be removed from the DCP application area, on the grounds of conflict with private covenants and / or design restrictions already in place. We also maintain that these controls replicate many of the other requirements within the DCP (I.e. A level of protection is already afforded.)"*
2. *Current covenants in place with respect to area identified as (A) on above referred plan. You will note that these covenants address a broad range of building restrictions from massing to setbacks to materials and even behavioural issues such as boat and trailer parking. Some of the more pertinent restrictions (which directly conflict with the current draft DCP 47) are highlighted for your reference. Some of the lots (12 in total) within this area in particular are as small as 320 sqm and support zero lot line development - such lots and side setbacks would be prohibited under the draft DCP, in addition to conflicts with regard to materials etc.*
3. *Current covenants in place with respect to area identified as (B) on above referred plan. You will note that these covenants also address a broad range of building restrictions from massing to setbacks to materials and even behavioural issues such as boat and trailer parking. Some of the more pertinent restrictions (which directly conflict with the current draft DCP 47) are highlighted for your reference. In addition to these covenants a number of lots have been created and sold for the express purposes of developing Duplex's upon the site - some of which are as yet, undeveloped. These lots measure approximately 750 - 800 sqm and are located upon corner allotments - such duplex's would be precluded from being able to be developed under the New draft DCP 47.*
4. *We enclose a copy of the current Architectural Standards which relate to development upon lots at Limekilns, Area (C) on above referred plan. You are probably not aware of the fact that this land consists of a Council approved Community Title Subdivision which implements the attached Architectural controls, which are, in themselves, quite prescriptive.*

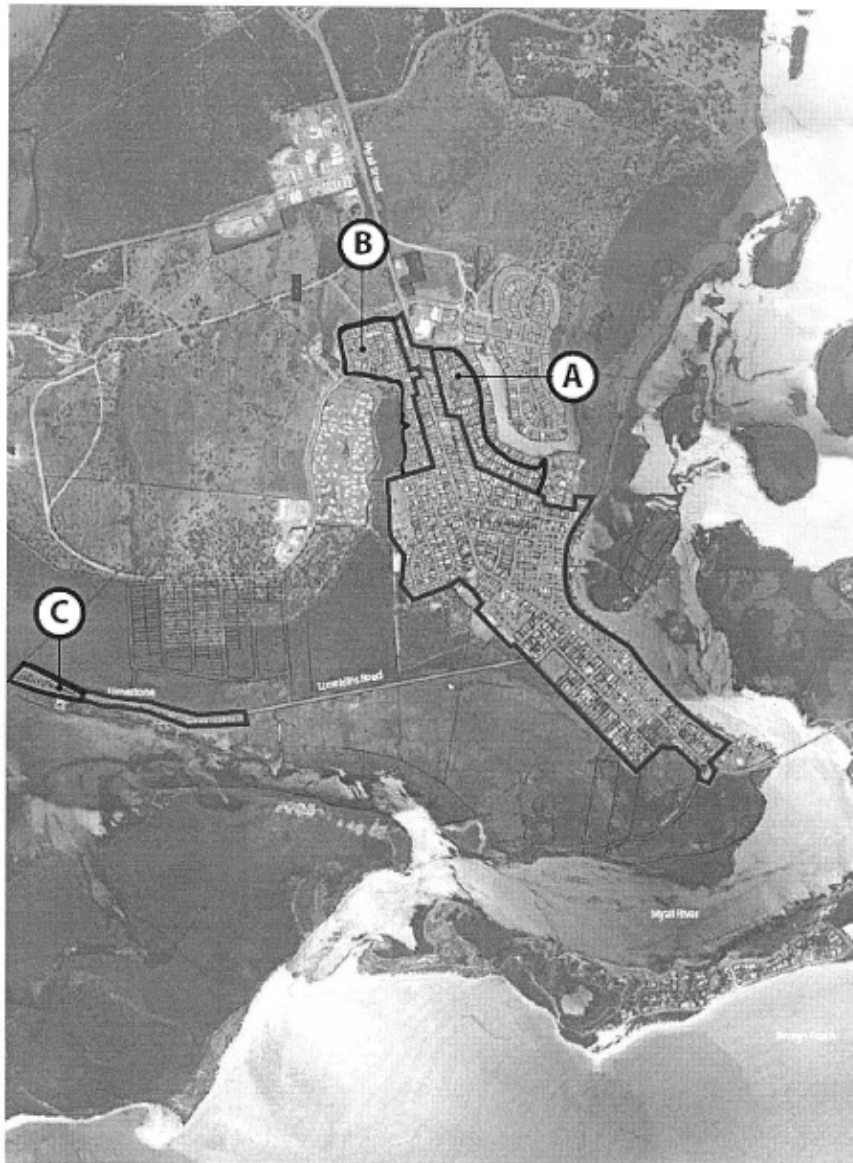


Figure 1: Tea Gardens DCP, Study Area 1:20000

— Suggested Scope of DCP

*As per our presentation on Tuesday, we believe Council may be in a position to consider two options - at least as far as our comments relate to our own company's (and its recent purchaser's) land holdings.*

1. *Review the scope of the DCP in line with the attached suggested scope - thereby avoiding any conflict with private covenants and Architectural Guidelines, or*

2. *Seek to reconcile the numerous differences and conflicts between the DCP and the range of covenants already in force in these locations.*

*Should Council choose to adopt the former of these two suggestions, both Crighton Properties Pty Ltd, and Jeurgen Seil (and the group Mr. Seil represents) would have no further objection to the provisions of DCP 47.*

*Should the latter be the case, both parties reiterate their serious concerns with, in particular, the requirements for the use of light weight materials and limitations imposed on duplex development as a result of minimum land area allocations. As you can see from the attached instruments a number of other architectural controls would also appear to be in conflict."*

## **Response**

Those areas subject to Community Title Management Plans which specify the use of other external finishes e.g. masonry, submitted during the public exhibition period were already excluded from the study area wherever possible, to overcome any potentially conflicting recommendations within the draft plan.

At the Committee meeting it was made clear that the information made available to Council did not identify all community title management plans and additional information has subsequently been provided as documented above and within Annexure 'B' to this report.

In considering the additional information provided, the established inner areas of Tea Gardens are considered to be of greater importance in terms of the proposed recommendations for building material controls. There are no significant concerns regarding the exclusion of areas 'A', 'B' and 'C' as outlined in the above plan, on the basis that: (i) these areas are almost fully developed, (ii) Council has accepted these controls to date and (iii) Council has already approved the architectural controls in the community title subdivision in area 'C'.

Therefore it is proposed that the study area illustrated within Figure 1 of DCP No.47 be amended to reflect the removal of areas 'A', 'B' and 'C' as illustrated in the above plan.

### **(b) Submission/Oral Presentation Issue - NSW Housing Code**

Consideration should be given to the effectiveness of the DCP in light of current legislation (SEPP Exempt and Complying Development Codes). DCP should be reconsidered altogether as it will be a "blunt instrument".

## **Response**

Approximately 65% of properties within the Tea Gardens study area are unable to utilise the provisions of the NSW Housing Code due primarily to bush fire prone land and flood control exclusions. Noting that this estimation will increase to approximately 75% with the reduced study area resulting from the removal of areas covered by community title covenants detailed above.

In addition, even if a land owner is able to use the NSW Housing Code because their land satisfies the SEPP exclusions, they must also be willing and able to design a dwelling which is fully compliant with the building design provisions of the Housing Code in order to obtain a fast-tracked approval.

The two primary differences between use of the NSW Housing Code's fast track approval and a Council development assessment process are:

- the requirements for a merits based assessment; and
- notification of potentially affected landowners prior to determination of an application.

Neither of these are a requirement of the SEPP Exempt & Complying Development - NSW Housing Code, but are required as part of the assessment of a development application under the Environmental Planning & Assessment Act 1979 and Regulations 2000.

Therefore, in consideration of the large number of properties which may be developed or redeveloped for low density residential purposes without the 'benefit' of the NSW Housing Code, Council has developed a plan which reflects the structure and standards of the NSW Housing Code and other State Policies, but also contains development controls and objectives tailored to the future desired character as expressed by the community; the environment; and pattern of development evident within Tea Gardens.

### **(c) Submission/Oral Presentation Issue- Lightweight materials**

Promotion of lightweight materials - inappropriate in areas affected by flood and bush fire; however appropriate in proposed heritage conservation area and adjoining existing and proposed heritage items.

#### **Response**

The NSW Coastal Design Guidelines (1997) and the North Coast Urban Design Guidelines (2009), which are guiding documents for the preparation of development control plans in areas such as Tea Gardens, encourage the use of lightweight materials, building design and construction, suitable to coastal settings. In particular, the North Coast Urban Design Guidelines state:

#### **"12 SECTION C: BUILT FORM - URBAN DESIGN GUIDELINES**

*These guidelines identify key aspects of built form that contribute and respond to the local and regional character of North Coast settlements. These aspects should be encouraged in future development. They guide the provision of amenity for residents and pedestrians, and ensure the development of a variety of residential types, including mixed use developments, which contribute to the vibrancy and economic sustainability of the area.*

#### **Principles to apply to all housing types**

- *Encourage elevated, lightweight construction in response to climate and breezes*
- *Provide flexible sun-shading devices, louvers and natural ventilation systems to allow passive environmental control*
- *Provide semi-sheltered outdoor spaces of usable dimensions to mediate between indoors and outdoors*
- *Establish building orientation towards street front in keeping with the local settlement pattern with consistent scale, materials and setbacks, whilst maintaining built form diversity and contributing to the settlement character*
- *Allow for wide gutters to handle heavy rainfall*
- *Ensure building elements are integrated into the design of the façade and overall form*
- *Amalgamation and subdivision of lots may be necessary to accommodate a desired change in density of development*
- *Allow zones for street-side planting to provide shade for pedestrians and parked cars and provide screening and enhanced privacy of residential lots*
- *Maintain generous footpaths separated from street by a grassed or landscaped median strip*
- *Install services in a discreet way; place major cables underground in preference to overhead wires in areas of higher density"*

Community consultation has also indicated that new development should be sympathetic (in design and construction) with the existing heritage items and proposed heritage conservation area of Tea Gardens. Utilising materials which reflect those used historically, is one mechanism available to achieve this urban design outcome.

With the proposed amendment to the study area of the DCP outlined previously within this report, the distinction between the older existing core of Tea Gardens is likely to become more visually apparent through the design and construction of future residential development.

The DCP already indicates that both the selection of materials and method of construction must have regard to bush fire hazards and protection requirements in response to submissions raised during public exhibition.

Construction methods in response to flooding are more appropriately addressed within the modified cut and fill provisions for Tea Gardens, reflecting the pattern of development where new dwellings and residential development are required to be raised above the 1 in 100 year flood level, irrespective of proposed materials of construction.

In response to concerns regarding the promotion of lightweight materials within the plan and having regard to the modified study area, it is recommended that the following modifications be made to the General Building Design provisions:

### **Objective**

*To provide a high quality design of buildings suited to ~~this sensitive estuarine environment~~ the historic character and natural setting of Tea Gardens.*

### **Controls** (relating to lightweight materials only)

- ~~Buildings are to be constructed predominantly of light weight materials such as weatherboards and/or timber and fibre cement, for external cladding.~~ (DELETE)
- Selection of materials and method of construction must have regard to bush fire hazards and protection requirements. (RETAIN)
- ~~The use of materials such as concrete and masonry are to be minimised.~~ (delete)
- The colour of materials is sympathetic to the natural setting of the locality. Highly reflective materials are not appropriate. (RETAIN)
- **Buildings use a balanced mixture of materials, including lightweight materials, reflecting the character of the locality.** (INSERT)
- ~~Lightweight materials are used for cladding as well as roofing where possible.~~ (DELETE)
- ~~Where alternative materials are proposed the applicant must demonstrate how the alternative materials are consistent with character of the locality.~~ (DELETE)

These amendments are proposed in order to reflect the Vision of the plan (p.4) which promotes both the historic character and the natural setting of Tea Gardens, while allowing flexibility in the selection of materials for development in the study area.

### **(d) Submission/Oral Presentation Issue - Integrated housing**

Opportunities for integrated housing and smaller lot sizes, particularly on corner allotments are not provided within the development control plan.

### **Response**

In considering submissions in objection to the original minimum lot size proposal of 350sqm it was agreed that the densities put forward in the Hawks Nest Tea Gardens Housing Strategy should most appropriately be interpreted as applying to urban release areas, not the established urban areas of Tea Gardens.

Therefore, an amended density of 450sqm per dwelling was adopted for the final draft of the development control plan.

In considering this amendment and having regard to future opportunities for 'integrated housing and smaller lot sizes', the provisions of draft DCP No.47 do not preclude or supersede the existing provisions of DCP 31 - Subdivision which state:

**"Residential lots less than 450sqm**

*Allotments less than 450sqm in area will only be permitted where those allotments are:*

- *Incorporated within an integrated housing development; or*
- *Created via subdivision of an approved existing multiple dwelling development.*

*In determining the suitability or otherwise of any subdivision application for small lots (less than 450sqm), the following matters will be taken into account:*

- *Cost of providing services and the capacity of existing services;*
- *The advantages of building to a boundary and using attached and semi-detached forms of housing;*
- *That adequate visual and aural privacy can be assured for each proposed dwelling; and*
- *That adequate provision is made for access to the sun and natural light for each proposed dwelling."*

Therefore no additional amendment to the draft development control plan is considered necessary to accommodate opportunities for either integrated housing or subdivisions for lots smaller than 450sqm.

**CONCLUSION**

As a result of issues raised in meetings held during the public exhibition period and in public submissions received, several minor amendments were incorporated into the draft development control plan prior to the 8 September Strategic Committee meeting. These amendments did not materially change the intent of the document which is to encourage high quality design and development within Tea Gardens.

In response to the oral presentations made at the Strategic Committee meeting and the provision of additional information in support of submissions received, two additional amendments to the draft development control plan are proposed:

- The Study Area of the plan, illustrated in Figure 1, is to be amended to exclude lands already covered by community title management plans; and
- Minor modifications to the General Building Design objectives and controls relating to the use of lightweight materials.

These amendments are also considered to be consistent with the intent of the document which is to encourage high quality design and development within Tea Gardens, while providing a more defined area for the application of these controls. Therefore, it is recommended that the final draft Development Control Plan (as amended and attached to this report) be adopted for implementation.

**RECOMMENDATION:**

It is recommended that Council:

- A. Adopt the *Development Control Plan No.47 – Tea Gardens (Low density residential development)* for implementation, as contained in Attachment 'A' to this report.
- B. Forward the adopted Development Control Plan in item 'A' to the Department of Planning.
- C. Combine the relevant Tea Gardens provisions of *DCP No.52 Tea Gardens-Hawks Nest Town Centres* with the adopted *Development Control Plan No.47 – Tea Gardens (Low density residential development)* into one locality-based development control plan for Tea Gardens, following Council's adoption of the latter.

## **DIRECTOR CORPORATE & COMMUNITY SERVICES**

### **3 CCS - Community Strategic Plan**

**Index:** Corporate Manager - Community Engagement Strategy  
**Author:** Director Corporate & Community Services - Steve Embry  
**Strategic Committee Meeting:** 6 October 2009

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#### **SUMMARY OF REPORT:**

To adopt the Community Engagement Strategy for the development of the Community Strategic Plan - Great Lakes 2030.

#### **SUMMARY OF RECOMMENDATION:**

That the Community Engagement Strategy for the development of the Community Strategic Plan - Great Lakes 2030 as presented be adopted.

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

Council has established a budget for the development of the Community Strategic Plan and the Engagement Strategy costs will be covered within this budget.

#### **POLICY IMPLICATIONS:**

Nil.

#### **LEGAL IMPLICATIONS:**

Nil.

#### **LIST OF ANNEXURES:**

A: Community Strategic Plan - Great Lakes 2030 - Community Engagement Strategy September 2009

#### **LIST OF ATTACHMENTS:**

Nil.

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#### **REPORT:**

At the Strategic Committee meeting held 8 September 2009 council received a presentation from Blackadder & Associates & KJA outlining the proposed process for the development of a Great Lakes Community Strategic Plan. The details contained in the presentation have now been documented into a Community Engagement Strategy and are presented to Council for adoption.

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**RECOMMENDATION:**

That the Community Engagement Strategy for the development of the Community Strategic Plan - Great Lakes 2030 as presented be adopted.

**Keith O'Leary**  
**General Manager**