



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 8 SEPTEMBER 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 11 August 2009
4. Consideration of Officers' Reports:
Director Planning & Environmental Services
Director of Engineering Services
Director Corporate & Community Services.
9.30am - 11.00am Blackadder & Associates - process re: Community Strategic Plan
11.00am - 11.45am Swimming Pools - Council's position re: risk management - Presentation by Manager Parks & Recreation
11.45am - 12.45pm Stroud Dwellings DCP - Presentation by Consultants Bennell & Assoc & Deicke Richards
12.45pm - 1.30pm LUNCH
1.30pm - 4.30pm Presentation by Consultants Bennell & Assoc & Deicke Richards on Tea Gardens, Hawks Nest, Pacific Palms DCP and public submissions.
5. Urgent Business
6. 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 Amended Stroud Heritage DCP No.33

Index: SP-DCP-33; DCP Review 2007 Project
Author: Strategic Land Use Planner - Rebecca Underwood
Strategic Committee Meeting: 8 September 2009

SUMMARY OF REPORT:

This report is to be read in conjunction with draft Amended Stroud Heritage Development Control Plan (DCP) No.33. The draft DCP is presented for Council's adoption for public exhibition.

SUMMARY OF RECOMMENDATION:

That Council adopt draft Amended Stroud Heritage DCP No.33 for public exhibition purposes.

FINANCIAL/RESOURCE IMPLICATION:

This DCP project is the subject of a Planning Reform Fund 'Memorandum of Understanding' with the Department of Planning and can be accommodated in Council's Strategic Planning Budget.

POLICY IMPLICATIONS:

The amended draft development control plan will provide new building and subdivision design controls and incorporate the review of existing controls within the study area. As part of this review amended and simplified controls for heritage items and the Stroud Heritage Conservation Area are proposed. In addition, mapped 'Heritage Areas' identified in the original DCP (Figure 1) have been reduced and consolidated for simplicity.

In response to the NSW Housing Code implications for the urban areas of Stroud, it is proposed that an expanded heritage conservation area be considered for Stroud and public consultation on this matter be undertaken in association with the public exhibition of the Draft Amended Stroud Heritage Development Control Plan No.33.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

A: Stroud Heritage Development Control Plan No.33 (currently in force)

LIST OF ATTACHMENTS:

A: Draft Amended Stroud Heritage DCP No.33 (revised version for exhibition)

REPORT:

In June 2009 Council appointed Rick Bennell & Associates and Deicke Richards (the 'Consultants') to complete the DCP Review 2007 Project - Stage 1. The purpose of this project is to complete the preparation of the following new development control plans:

- Development Control Plan No.45 - Seal Rocks Coastal Hamlet; and
- Development Control Plan No.46 - Single Dwelling & Dual Occupancy Development; and
- Amended Development Control Plan No.33 - Stroud Heritage.

These documents were previously presented to Council on 11 March 2008 where Council resolved *'that the draft DCPs for single dwellings and dual occupancies, Stroud and Seal Rocks be deferred to enable Councillors and staff to review the documents and that they be presented to a future workshop'*.

During the internal review of these documents a workshop was held between the 'Consultants' and staff from Council's Strategic, Development, Building, Transport Assets and Natural Systems divisions to seek feedback on the DCP objectives and design controls.

The workshop also considered a range of issues including: the structure plan of each locality; existing controls; policies and legislative restrictions; environmental protection and conservation; and the provisions of the SEPP Exempt & Complying NSW Housing Code. The workshop was constructive and has largely driven the updated structure and content of these documents.

The review of draft Amended Stroud Heritage DCP No.33 is now complete and the document is presented to Council for adoption for public exhibition purposes. A copy of the draft DCP is contained in Attachment 'A'.

Please note that the draft Single Dwelling House and Dual Occupancy DCP No.46 is presented in a separate report for Council's consideration, while the draft development control plan for Seal Rocks was adopted for exhibition by Council on 11 August 2009.

Key Additions/Changes to DCP

The following bullet points outline the key additions/changes to the existing Stroud Heritage DCP No. 33:

- Includes a Structure Plan that outlines the overall plan for the future growth and development of the historic township and identifies the key constraints and opportunities for growth and development;
- Includes a clear Vision for the protection of the historic character of Stroud;
- Provides a single DCP for the area and amalgamates DCPs for Memorial Drive, Listening Hill and Simmsville into one document;
- Incorporates lot size and density controls in readiness for new Principal LEP; a lot size of 700m² for inner village area and 1000m² for outer village area is proposed together with a floor space ratio of 0.4:1;
- Proposes minimum allotment widths of 18m and 20m in the inner and outer village areas, respectively;
- Incorporates building controls requiring a breaking up of the building form and encouraging garages as separate structures;
- Prohibits solid metal fencing in the conservation area while discouraging such fencing in the wider DCP area;

- Includes a colour palette to guide future development colour choices;
- Removal of lengthy foreword, heritage planning section, glossary and list of heritage items (heritage items to be incorporated into Council's Standard Local Environmental Plan).

Public Exhibition of Documents

Upon adoption of draft Amended Stroud Heritage DCP No.33 for public exhibition, the plan shall be exhibited for a minimum period of 28 days in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000*.

All land owners within the area affected by the draft DCP shall be notified and invited to comment and make submissions on the draft document. Public information sessions will also be held during the period of public exhibition.

Following public exhibition, the final draft DCP (which may be amended) and key submission issues will be reported back to Council for adoption.

RECOMMENDATION:

It is recommended that:

- A. Pursuant to clause 18 of the *Environmental Planning and Assessment Regulation 2000*, Council adopt draft Development Control Plan No.33 Stroud Heritage as Amended (as contained in Attachment 'A') for public exhibition purposes; and
- B. Notification of the exhibition of the document in Item 'A' be given in the manner prescribed under the Regulations; and
- C. A copy of the document in Item 'A' be forwarded to the Department of Planning in accordance with the provisions of the Planning Reform Fund Memorandum of Understanding; and
- D. In response to the NSW Housing Code implications for the urban areas of Stroud, that an expanded heritage conservation area be considered for Stroud and public consultation on this matter be undertaken in association with the public exhibition of the draft Amended Stroud Heritage Development Control Plan No.33.

2 PES - Draft Single Dwelling House & Dual Occupancy DCP No.46

Index: SP-DCP-46; DCP Review 2007 Project
Author: Strategic Land Use Planner - Rebecca Underwood
Strategic Committee Meeting: 8 September 2009

SUMMARY OF REPORT:

This report is to be read in conjunction with the draft Single Dwelling House and Dual Occupancy Development Control Plan (DCP) No.46. The draft DCP is presented for Council's adoption for public exhibition.

SUMMARY OF RECOMMENDATION:

That Council adopt the draft Single Dwelling House and Dual Occupancy Development Control Plan No.46 for public exhibition purposes.

FINANCIAL/RESOURCE IMPLICATION:

This DCP project is the subject of a Planning Reform Fund Memorandum of Understanding with the Department of Planning and can be accommodated in Council's Strategic Planning Budget.

POLICY IMPLICATIONS:

The draft plan will provide comprehensive guidelines for single dwellings and dual occupancy development within the Great Lakes, except for those areas where a locality based plan already applies. The plan will supersede DCP 30 - Residential Urban Areas as it applies to dual occupancy development.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

A: Draft Single Dwelling House and Dual Occupancy Development Control Plan No.46

REPORT:

In June 2009 Council appointed Rick Bennell & Associates and Deicke Richards (the 'Consultants') to complete the DCP Review 2007 Project - Stage 1. The purpose of this project is to complete the preparation of the following new development control plans:

- Development Control Plan No.45 - Seal Rocks Coastal Hamlet; and
 - Development Control Plan No.46 - Single Dwelling House & Dual Occupancy; and
 - Amended Development Control Plan No.33 - Stroud Heritage.
-

These documents were previously presented to Council on 11 March 2008 where Council resolved *'that the draft DCPs for single dwelling, Stroud and Seal Rocks be deferred to enable Councillors and staff to review the documents and that they be presented to a future workshop'*.

During the review of these documents a workshop was held between the 'Consultants' and staff from Council's Strategic, Development, Building, Transport Assets and Natural Systems divisions in order to seek feedback on the DCP objectives and design controls.

The workshop also considered a range of issues including: existing controls, policies and legislative restrictions; environmental protection and conservation; and the provisions of the SEPP Exempt & Complying NSW Housing Code. The workshop was constructive and has largely driven the revised structure and content of these documents.

The review of draft Single Dwelling House and Dual Occupancy DCP No.46 is now complete and the document is presented to Council for adoption for public exhibition purposes. Key elements of the draft DCP will be discussed at the 8th September Strategic Committee Meeting. A copy of the draft DCP is contained in Attachment 'A'.

Please note that the draft Amended Stroud Heritage development control plan is presented in a separate report for Council's consideration while the draft development control plan for Seal Rocks was adopted for exhibition by Council on 11 August 2009.

Public Exhibition of Draft DCP

Upon Council's adoption of draft Single Dwelling House and Dual Occupancy DCP No.46 for public exhibition, the document will be exhibited for a minimum period of 28 days in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000*.

The draft plan is intended to apply throughout the Great Lakes and therefore will be notified in all local newspaper publications. Public information sessions will be held during the period of public exhibition.

Following public exhibition the final draft plan (which may be amended) and key submission issues will be reported back to Council for adoption.

RECOMMENDATION:

It is recommended that:

- A. Pursuant to clause 18 of the *Environmental Planning and Assessment Regulation 2000*, Council adopt draft Single Dwelling House and Dual Occupancy Development Control Plan No.46 (as contained in Attachment 'A') for public exhibition purposes; and
- B. Notification of the exhibition of the document in Item 'A' be given in the manner prescribed under the *Regulations*; and
- C. A copy of the document in Item 'A' be forwarded to the Department of Planning in accordance with the provisions of the Planning Reform Fund Memorandum of Understanding.

3 PES - Draft Development Control Plan No.48 - Hawks Nest (low density residential)

Index: SP-DCP-48; DCP Review 2007 Project
Author: Senior Strategic Land Use Planner - Alexandra Macvean
Strategic Committee Meeting: 8 September 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.48 – Hawks Nest (Low density residential development); (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.48 – Hawks Nest (Low density residential development) and forward a copy of the final adopted document to the Department of Planning.

FINANCIAL/RESOURCE IMPLICATION:

Nil.

POLICY IMPLICATIONS:

- The final draft Development Control Plan No.48 – Hawks Nest (Low density residential development) shall supersede Development Control Plan No.30 – Residential Urban Areas and Development Control Plan No.31 – Subdivision, within the study area of Hawks Nest.
- Amended Section 149(5) certificate notation required for on the Winda Woppa peninsula
- Upon adoption of the final draft DCP No.48 – Hawks Nest (Low density residential development) it is recommended that DCP No.48 and the Hawks Nest provisions of DCP No.52 Tea Gardens-Hawks Nest Town Centres, be combined into one locality-based development control plan for Hawks Nest.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A: Public exhibition copy of Draft Development Control Plan No.48 – Hawks Nest (Low density residential development)
- B: Summary table of submission issues raised during public exhibition.

LIST OF ATTACHMENTS:

- A: Final Draft Development Control Plan No.48 – Hawks Nest (Low density residential development)
-

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 2 of Council's DCP Review 2007 Project. Stage 2 of the Project is aimed at providing comprehensive 'place based' controls for development within the Pacific Palms, as well as for low density residential development in Tea Gardens and Hawks Nest.

The draft Tea Gardens and Pacific Palms development control plans are presented to Council in separate reports.

The Draft DCP for Hawks Nest (Low Density Residential) was workshopped at Council's Strategic Committee on 10 March 2009. The Draft DCP was then adopted for the purposes of public exhibition at the Strategic Committee meeting on 14 April 2009.

PUBLIC EXHIBITION:

Draft DCP No.48 – Hawks Nest (Low density residential development) was adopted by Council and placed on public exhibition for a period of fifty-one (51) days between 23rd April and 12 June 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.

A Public Meeting during the public exhibition period to discuss the draft DCP was held at the Hawks Nest Community Centre, Tuesday 19 May 2009, 6:30pm-9pm. Thirty one (31) people attended this meeting. Opportunities to attend weekly Public Information Sessions were also available during the exhibition period.

PUBLIC EXHIBITION SUBMISSIONS:

Eighteen (18) individuals and organisations made submissions to Council during the public exhibition period. 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 provided in detail within the tables contained in Annexure 'B' 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).

In addition to comments regarding the proposed design controls, the tables include suggested corrections to typographical errors, etc. All matters have been considered in preparing the final draft document presented to Council however, typographical and grammatical corrections have not been discussed in this report.

A summary of amendments to the proposed 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'.

Part 1 - Introduction

Submission Issue No. 1

Request for clarification of the scope of residential development affected by the plan.

Response to Submission

For clarity in the application of the plan's residential development controls, the heading of 'Part 4' of the plan has been changed from 'Controls for Single and Multiple Dwellings' to read 'Controls for Residential Development'.

Submission Issue No. 2

Request for clarification of the land affected by the plan; and the relationships with existing development control plans.

Response to Submission

The 'Land and Development Covered by Plan' section and Figure 1 have been revised to make it clear that:

- all land within the bold orange outline on Figure 1, is subject to the provisions of the plan;
- all land within the hatched area on Figure 1 is subject to the provisions of this plan and the provisions of DCP 52 - Tea Gardens Hawks Nest Town Centres;
- the plan shall supersede DCP 30 Residential Urban Areas; and
- the plan will prevail where there is any inconsistency with the minimum lot size requirements specified in DCP 31 Subdivision.

The 'Legal Framework' section on page 2 has been amended to:

- correspond with wording in the 'Land and Development Covered by Plan' section (page 1);
- remove all references to the Hunter Regional Environmental Plan 1997, which was repealed by the Department of Planning during public exhibition of the draft DCP;
- include DCP 52 Tea Gardens Hawks Nest Town Centres in the flowchart; and
- expand the 'Exempt and Complying Development' and 'Guidelines' references to include other policy documents that should be considered prior to preparing a development application.

Part 2 - Structure Plan

Submission Issue No.3

There are minor mapping errors on Figure 3 - Structure Plan.

Response to Submission

These errors have been corrected.

Part 3 - Site Planning Controls for All Developments

Submission Issue No. 4

One (1) submission was received from MidCoast Water which stated:

“Whilst the documents are largely seen by MidCoast Water as adequate, we believe that there should be a recognition of water and sewerage servicing requirements and a greater emphasis on Integrated Water Cycle Management.”

Response to Submission

In response to this submission, Council met with MidCoast Water and discussed including the following clause in the 'Site Analysis' section of the plan:

“Integrated Water Management

All proposals for development to implement an integrated approach to urban 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 & hazards
- Complies with relevant water supply, sewerage & stormwater guidelines & policies”

Submission Issue No. 5

Council's Transport Assets section provided comments on the draft clause requiring engineering reports on land affected by Sea Level Rise and Coastal Erosion (second bullet point).

Response to Submission

In the Environmental Hazards section of the draft DCP, the amended bullet point now reads:

"For development proposals on the Winda Woppa peninsula, a report from a suitably qualified geotechnical engineer and an engineer specializing in coastal marine processes shall be required, to determine suitable measures for protection of the building against coastal erosion and recession, changes in storm frequency and intensity and sea level rise."

Submission Issue No. 6

Council's Transport Assets section also provided comments with regards to the Winda Woppa peninsula. Council's Section 149 (5) Certificate currently provides a Notation regarding recession and severe erosion issues for the peninsular and it was considered appropriate that:

- An updated Section 149 (5) Notation be provided for the affected lands; and
- a similar cautionary note be incorporated into the development control plan's 'Environmental Hazards' section.

Response to Submission

The proposed Section 149 (5) Certificate Notation for all affected lots at Winda Woppa would read:

“This land is within an area (Winda Woppa) that has been and continues to be subject to severe coastal erosion.

The Winda Woppa area has been subject to a moratorium preventing further building works during the period from 10 July 1984 to 14 November 1989. The reason for the moratorium was that Jimmy's Beach is a recession area and subject to severe erosion.

The Council has carried out expensive sand renourishment works and has resolved to continue to do so. The restriction on building has therefore now been lifted on the basis the renourishment works will continue. It should be noted that if Council had not carried out these expensive renourishment works ~~which have cost over \$800,000 in six years between 1983 and 1989 and over \$2 million up to the year 2000~~, then it is highly likely that severe damage to property and dwellings along the beach area would have already occurred and eventually all properties on the peninsula would be affected adversely.

The approval by Council to allow building on the peninsula is subject to these works continuing and accordingly special local contributions in addition to normal rates may be required in the future to supplement available funds from Council and Government to protect the properties from erosion and damage. The extent of future contributions may be somewhat dependent on erosion rates."

This notation would then also be incorporated into the development control plan.

Part 4 - Controls for Residential Development

Submission Issue No. 7

Winda Woppa:

- To achieve objective (maintain low density and character) the whole of the Winda Woppa peninsula should be included in site specific area guidelines.
- Under "Site Specific Area - Winda Woppa" it is stated that: "The area... has a minimum allotment size of 1000m²..." My observation is that most if not all lots in the area described are smaller than 1000m². I have been advised that the inclusion of this statement is to satisfy the LEP but this is confusing.

Response to Submission

Great Lakes Local Environmental Plan Clause 27 — RESTRICTION OF DEVELOPMENT AT WINDA WOPPA states:

"Objective of Provision

To restrict the intensity of development on the Winda Woppa peninsula to a level consistent with this environmentally sensitive location.

Restriction on development at Winda Woppa

(1) This clause applies to land at Winda Woppa as shown with distinctive hatching on the map and generally bounded by Gemallia Street, The Boulevard, Fishermans Walk and The Anchorage.

Subdivision

(2) The Council must not grant consent to the subdivision of land to which this clause applies unless each separate allotment to be created by the subdivision has an area of not less than 1,000 square metres.

Multiple Dwellings

(3) The Council may grant consent to development that results in 2 dwellings (but no more) on an allotment to which this clause applies if -

- (a) the area of the allotment on which the development is to be carried out is not less than 450 square metres; and
 - (b) the 2 dwellings will be in a single building; and
 - (c) the gross floor area of one dwelling will not exceed 55 square metres; and
 - (d) the Council is satisfied that the owner of the allotment will occupy one of the dwellings.
- (4) The Council must not grant consent to any subdivision of land on which development referred to in this clause has been carried out if the subdivision would result in the 2 dwellings being situated on separate allotments."

The draft development control plan is a guiding document subordinate to the GL LEP 1996 and the purpose of including the Winda Woppa provisions in addition to the more general provisions of the plan is to highlight:

- The restrictions to development imposed by the LEP; and
- The potential risk for all lands within the Winda Woppa peninsula being affected by coastal erosion and recession, changes in storm frequency and intensity and sea level rise (see Part 3 Submission 5 above).

Therefore, the provisions within the exhibited version of the draft development control plan have been expanded and clarified to reflect the specific controls and requirements to be considered when preparing an application for development on the Winda Woppa peninsula.

Submission Issue No. 8

Site Cover and Landscaping –

- Site Cover controls of 150sqm & 120sqm are unclear and are only 'fixed' control within the DCP e.g. FSR and Site Cover are a percentage irrespective of lot size. This control does not appear to work well because of this contradiction between fixed and sliding scale controls.
- Owners of existing properties should be able to knock down and rebuild something of similar size and nature particularly where properties have been there for many years and accordingly are part of areas character.

Response to Submission

The exhibited plan proposed a combination of two site cover controls:

- a maximum site coverage of 40% for all structures within a development; and
- a footprint limit for structures within the development - 150sqm for single storey structures and 120sqm for two storey structures.

The 40% site coverage would control the total area of the buildings on the site, and the square metre controls would assist in reducing the bulk of any single building component on a site. The site coverage definition included driveway areas and would have encouraged two storey buildings for larger dwellings.

However the consultation process and submissions have highlighted a need to reconsider the site coverage provisions to reflect the expectation of any property owner to build a three or four bedroom single storey home on any standard sized residential allotment.

Therefore, the following changes to the exhibited document are recommended:

- the building footprint site cover limits of 150sqm and 120sqm shall be removed; and
- a general building design provision shall be introduced limiting building elements (e.g. wall lengths) to a dimension of 12m, thereby encouraging disaggregation of building bulk.

The proposed changes to the site cover controls, in combination with the 0.4:1 floor space ratio requirement, would allow a typical three to four bedroom single storey dwelling to be built on a standard 450sqm allotment.

Submission Issue No. 9

Concerns have been expressed regarding the use of 'lightweight materials' in the design and construction of dwellings, namely:

- Final finish should be taken into account. Whether structures walls are cement rendered, concrete or brick, the final appearance is similar to that of wallboard with a "Granitex" finish type. Does DCP suggest that fibro cement cladding should only be painted? (Many existing homes are brick with tile roof, many using rendered or bagged finish)
- Questions restriction to use of "light weight materials for cladding and roofing" and that use of concrete masonry be "minimised". *Minimised* needs to be better defined.

Response to Submission

Community consultation indicates that new development should be sympathetic in design and construction, with the bushland setting and coastal character of Hawks Nest, and utilising materials which reflect those used historically, is one mechanism available to achieve this urban design outcome.

The specification of a measure e.g. '50% of materials must be lightweight', is considered inappropriate within the development control plan, which has been prepared with the aim of guiding future development in this location.

Therefore, it is proposed that the general recommendations for use of lightweight materials be maintained within the final draft development control plan.

Submission Issue No. 10

Society moving towards energy efficient buildings/practices (as recognised on page 19 of draft plan) however, light weight materials and eave overhang requirements proposed in the plan may not have best thermal properties to achieve energy efficiencies

Response to Submission

The provisions of SEPP (Building Sustainability Index BASIX) 2004 do have a higher priority than the provisions of any local environmental plan or development control plan. However, it is considered a reasonable that guidance on building materials and design is provided within the draft plan particularly when these guidelines aim to reflect the community's views on maintaining a 'village in a bushland setting', the coastal nature of the location, and a cohesive built character for Hawks Nest. With careful design there is no reason for these guidelines to be incompatible with energy efficiency and/or BASIX compliance.

Submission Issue 11

The cut and fill provisions are difficult to understand.

Response to Submission

In order to clarify the draft cut and fill provisions, the following exhibited provisions have been deleted:

- The maximum allowable depth of excavation on site is 1.2 m and must not extend more than 1.2 m beyond the external wall of the building if retaining walls are being used. -
- The maximum allowable fill is 1.2 m and must be contained wholly within the external walls of the building.
- Cut and fill involving benched areas for internal driveways and external landscape areas to be a maximum 25 m² per dwelling.

It is proposed that these prescriptive controls are instead replaced with the following controls regarding the appearance and intrusion of retaining walls associated with cut and fill:

- *Visually exposed retaining walls and terraces are not to be constructed to create a level lot and shall not exceed 0.9 m in height on the street frontage and 1.2m in all other areas.*
- *Where fences are located on top of retaining walls the maximum height of the combined structure shall not exceed 1.2m in front of the building line and 2.1m behind the building line'.*

Submission Issue No. 12

Council's current DCP 30 requires a minimum of one car space per dwelling 'less than 125sqm' or 'containing up to two bedrooms'. It would be appropriate for the new DCP to choose at least one of these standards to ensure consistent application of car parking requirements for any given application, preferably the 125sqm for ease of interpretation.

Response to Submission

It is considered appropriate to allocate a clear measure for the provision of parking for any development; therefore the following requirements have been incorporated into the draft plan:

- one car space per dwelling less than 125 sqm
- a minimum of two spaces per dwelling in excess of 125sqm

Submission Issue No. 13

Council's consistent position is to not support stacked or tandem car parking and this needs to be recognised in the DCP.

Response to Submission

Council's position is acknowledged and all references to stacked or tandem parking have been removed from the plan. In considering this position the development control plan now acknowledges the relevance of on-street car parking for visitors and overflow parking requirements.

The recognition of on-street parking spaces is considered particularly relevant in consideration of the development control plan objectives and requirements for landscaping areas and in particular the provision of deep soil zones, in preference to additional hard stand areas on an allotment.

Part 5 - Other Developments in the Residential Zone

Submission Issue No. 14

Ensure land uses are consistent with the Great Lakes Local Environmental Plan 1996 land use tables.

Response to Submission

Land uses have been fully reviewed and corrections made to ensure consistency within the final draft of development control plan.

Appendix A - Suitable plant species for landscaping

Submission Issue No. 15

People should be able to plant material on their own land as they choose, is everyone's right. I have a number of Australian plants from different states and would be upset and annoyed if Council prevented me from growing such material.

Response to Submission

The Landscaping species list provided within the draft plan was intended as a guide only and each application and landscape plan is assessed on its merits.

The species guide was prepared in response to the number of requests made to Council during both the development application and assessment processes regarding native species appropriate for Hawks Nest, particularly those which are considered to be fire retardant and suitable for koala use.

CONCLUSION

Following public exhibition and the meetings held during public exhibition period, several minor amendments have been incorporated into the draft development control plan. 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.48 – Hawks Nest (Low density residential development) for implementation, as contained in Attachment 'A' to this report.
- B. Forward the adopted Development Control Plan No.48 – Hawks Nest (Low density residential development) to the Department of Planning.
- C. Consolidate the relevant Hawks Nest provisions of *DCP No.51 Tea Gardens-Hawks Nest Town Centres* and final draft *DCP No.48 – Hawks Nest (Low density residential development)* into one locality-based development control plan for Hawks Nest, following Council's adoption of the latter.
- D. Amend Council's Section 149 (5) Certificate to include the following notation on all affected properties in Winda Woppa:

“This land is within an area (Winda Woppa) that has been and continues to be subject to severe coastal erosion.

The Winda Woppa area has been subject to a moratorium preventing further building works during the period from 10 July 1984 to 14 November 1989. The reason for the moratorium was that Jimmy's Beach is a recession area and subject to severe erosion.

The Council has carried out expensive sand renourishment works and has resolved to continue to do so. The restriction on building has therefore now been lifted on the basis the renourishment works will continue. It should be noted that if Council had not carried out these expensive renourishment works then it is highly likely that severe damage to property and dwellings along the beach area would have already occurred and eventually all properties on the peninsula would be affected adversely.

The approval by Council to allow building on the peninsula is subject to these works continuing and accordingly special local contributions in addition to normal rates may be required in the future to supplement available funds from Council and Government to protect the properties from erosion and damage. The extent of future contributions may be somewhat dependent on erosion rates.”

4 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: 8 September 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.47 – Tea Gardens (Low density residential development); (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.47 – Tea Gardens (Low density residential development). That Council forward a copy of the final adopted document to the Department of Planning.

FINANCIAL/RESOURCE IMPLICATION:

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: Exhibition copy of Draft Development Control Plan No.47 - Tea Gardens (low density residential)
- B: Summary table of public submissions

LIST OF ATTACHMENTS:

- A: Final Draft Development Control Plan No.47 - Tea Gardens (low density residential)
- 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 2 of Council's DCP Review 2007 Project. Stage 2 is aimed at providing comprehensive controls for development within the Pacific Palms, and for low density residential development in Tea Gardens and Hawks Nest.

The draft Pacific Palms and Hawks Nest development control plans are presented to Council in separate reports.

The draft DCP for Tea Gardens (Low Density Residential) was workshopped at Council's Strategic Committee meeting on 10 March 2009. The draft DCP was then adopted for the purposes of public exhibition at the Strategic Committee Meeting on 14 April 2009.

PUBLIC EXHIBITION

Draft DCP No.47 – Tea Gardens (Low density residential development) was adopted by Council and placed on public exhibition for a period of fifty-one (51) days between 23 April and 12 June 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.

A Public Meeting to discuss the draft DCP was held during the public exhibition period at the Hawks Nest Community Centre, Tuesday 19 May 2009, 6:30pm-9pm. Thirty one (31) people attended this meeting. Weekly Public Information Sessions were also available during the exhibition period.

PUBLIC EXHIBITION SUBMISSIONS

Ten (10) individuals and four (4) Community Groups made submissions to Council during the public exhibition. 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 'B' 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.

In addition to comments regarding the proposed design controls, the tables include suggested corrections to typographical errors, etc. All submission matters have been considered in preparing the final draft document presented to Council however, typographical and grammatical corrections have not been discussed in additional detail in this report.

A summary of amendments to the proposed 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'.

Part 1 - Introduction

Submission Issue No. 1

Request for clarification of the scope of residential development affected by the plan.

Response to Submission

For clarity in the application of the plan's residential development controls, 'Part 4 - Controls for of the plan has been changed from 'Controls for Single and Multiple Dwellings' to read 'Controls for Residential Development'.

Submission Issue No. 2

Request for clarification of the land affected by the plan; and the relationships with existing development control plans.

Response to Submission

The 'Land and Development Covered by Plan' section and Figure 1 have been revised to make it clear that:

- all land within the bold orange outline on Figure 1, is subject to the provisions of the plan;
- all land within the hatched area on Figure 1 is subject to the provisions of this plan and the provisions of DCP 52 - Tea Gardens Hawks Nest Town Centres;
- the plan shall supersede DCP 30 Residential Urban Areas; and
- Prevail where there is any inconsistency with the minimum lot size requirements specified in DCP 31 Subdivision.

The 'Legal Framework' section on page 2 has been amended to:

- correspond with wording in the 'Land and Development Covered by Plan' section (page 1);
- remove all references to the Hunter Regional Environmental Plan 1997, which was repealed by the Department of Planning during public exhibition of the draft DCP;
- include DCP 52 Tea Gardens Hawks Nest Town Centres in the flowchart; and
- expand the 'Exempt and Complying Development' and 'Guidelines' references to include other policy documents that should be considered prior to preparing a development application.

Submission Issue No. 3

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 to Submission

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.

Therefore, Council has developed a development control plan which reflects the structure and standards of the NSW Housing Code and other State Policies, but contains development controls and objectives tailored to the environment and pattern of development evident within Tea Gardens.

Part 2 - Structure Plan

Submission Issue No. 4

Stated vision seems to underestimate Tea Gardens as a town in "Transition". If retaining the stated character was seen to be justified, then vision should look to protect historic core of Tea Gardens rather than more recent development areas of Tea Gardens

Response to Submission

The DCP Review program recognises that Tea Gardens and its hinterland are areas in transition and thus the draft development control plan has been prepared to reflect:

- the desired future character of the Tea Gardens township expressed by the community;
- the historic significance of Tea Gardens;
- the evolving nature of development assessment in terms of built form, environmental protection and community requirements; and
- the impact of future release areas upon the existing urban areas of Tea Gardens.

Part 3 - Site Planning Controls for All Developments

Submission Issue No. 5

One (1) submission was received from MidCoast Water which stated:

"Whilst the documents are largely seen by MidCoast Water as adequate, we believe that there should be a recognition of water and sewerage servicing requirements and a greater emphasis on Integrated Water Cycle Management."

Response to Submission

In response to this submission, Council met with MidCoast Water and discussed including the following clause in the 'Site Analysis' section of the plan:

"Integrated Water Management

All proposals for development to implement an integrated approach to urban 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 & hazards*
- *Complies with relevant water supply, sewerage & stormwater guidelines & policies"*

Submission Issue No. 6

Council's Transport Assets section provided comments on the draft clause requiring engineering reports on land affected by Sea Level Rise and Coastal Erosion (second bullet point).

Response to Submission

In the 'Environmental Hazards' section of the draft DCP, the amended bullet point now reads:

"For development proposals on land identified in orange in Figure 4, a report from a suitably qualified geotechnical engineer and an engineer specializing in coastal marine processes shall be required, to determine suitable measures for protection of the building against coastal erosion and recession, changes in storm frequency and intensity and sea level rise."

Part 4 - Controls for Residential Development

Submission Issue No. 7

Density and Subdivision – Concern that 350sqm has been interpreted from Housing Strategy for infill development when recommendation directed more at new release areas.

Response to Submission

In reviewing the recommendations from the Hawks Nest Tea Gardens Housing Strategy it is agreed that the densities put forward 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 has been adopted for the final draft of the development control plan, which is consistent with the density recommended in the draft Hawks Nest development control plan.

Submission Issue 8

Site Cover and Landscaping - Building size should be comparable with existing recently established homes (3-4 bedroom double garage, terrace and single storey). Strongly object to the maximum allowable site cover of 135m² and also maximum site coverage for a single storey home of 150m². Would devalue the area and attract less desirable resident.

Response to Submission

The exhibited plan proposed a combination of two site cover controls:

- a maximum site coverage of 40% for all structures within a development; and
- a building footprint limit for structures within the development - 150sqm for single storey structures and 120sqm for two storey structures.

The 40% site coverage would control the total area of the buildings on the site, and the square metre controls would assist in reducing the bulk of any single building component on a site. The site coverage definition included driveway areas and would have encouraged two storey buildings for larger dwellings.

In considering the application of both the percentage and building footprint site cover controls it was considered appropriate to remove the footprint control to ensure that a single storey dwelling can be accommodated on all allotments.

Therefore, the following changes to the exhibited document are recommended:

- the building footprint site cover limits of 150sqm and 120sqm shall be removed;
- a general building design provision shall be introduced limiting building elements (e.g. wall lengths) to a dimension of 12m, thereby encouraging disaggregation of building bulk; and

The proposed changes to the site cover control in combination with the 0.4:1 floor space ratio requirement, would allow a typical three to four bedroom single storey dwelling to be built on a standard 450sqm allotment.

Submission Issue 9

Two opposing views were put forward with regards to the requirements to fill land to achieve habitable floor levels and the impacts this has on built form within Tea Gardens:

- Concerns regarding height considering new developments must be filled. Already examples of very tall buildings on filled land look out of character with existing dwellings and general fishing village atmosphere. Stricter guidelines needed for height and construction design.
- Some areas of Tea Gardens buildings required to be built above flood levels. 8.5 m height guidelines for development in these areas should take into account flood levels to ensure appropriate internal ceiling height levels can be achieved at same time ensuring 2 storey maximum building height.

Response to Submission

The visual impact of tall buildings on allotments which have been filled to achieve habitable floor levels is a significant consideration in Tea Gardens where a considerable number of allotments are potentially affected by flooding and sea level rise.

On flood prone allotments where landowners wish to construct a two storey dwelling, it is considered reasonable that designs which increase habitable areas in lofts, mezzanines and spaces otherwise occupied by roof voids are encouraged, to achieve a building height which does not negatively impact on streetscape, overlooking, overshadowing or inherently change the existing character of the locality.

The maximum building height of 8.5m, has also been adopted by Council within DCP 52 - Tea Gardens Hawks Nest Town Centres for areas zoned 2(a) Low Density Residential under Great Lakes LEP 1996.

It is therefore recommended that the 8.5m maximum building height be retained within the final draft of the development control plan.

Submission Issue 10

Various views were put forward with regards to the design and construction of dwellings:

- Strongly reject promotion of "predominantly light material" like fibro cement, weatherboards, etc. Masonry or rendered walls should be only allowable material to ensure high quality buildings with lasting value.
- Query restriction to use of "light weight materials for cladding and roofing" and that use of concrete masonry be "minimised". Minimised needs to be better defined.
- Rooflines should have pitch lines rather than allowing those of curved design

Response to Submission

The promotion of lightweight materials within the draft plan is consistent with the heritage character and coastal setting of Tea Gardens.

Community consultation 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.

Areas subject to Community Title Management Plans which specify the use of other external finishes e.g. masonry, have been excluded from the study area wherever possible to address the conflicting recommendations of the draft plan.

However the prohibition of curved rooves and specification of a measure e.g. '50% of materials must be lightweight', is considered inappropriate within the development control plan, which has been prepared with the aim of guiding future development in this location.

Therefore, it is proposed that the general recommendations for use of lightweight materials be maintained within the final draft development control plan.

Submission Issue 11

Filling beyond the building perimeter must be allowed given the requirement to elevate floor levels.

Response to Submission

The draft cut and fill provisions have been amended in consideration of the significant number of allotments potentially affected by flooding and sea level rise. In particular, the following exhibited provisions have been deleted:

- The maximum allowable depth of excavation on site is 1.2 m and must not extend more than 1.2 m beyond the external wall of the building if retaining walls are being used. -
- The maximum allowable fill is 1.2 m and must be contained wholly within the external walls of the building.
- Cut and fill involving benched areas for internal driveways and external landscape areas to be a maximum 25 m² per dwelling.

It is proposed that these prescriptive controls are instead replaced with the following controls regarding the appearance and intrusion of retaining walls associated with cut and fill:

- *Visually exposed retaining walls and terraces are not to be constructed to create a level lot and shall not exceed 0.9 m in height on the street frontage and 1.2m in all other areas.*
- *Where fences are located on top of retaining walls the maximum height of the combined structure shall not exceed 1.2m in front of the building line and 2.1m behind the building line'.*

Submission Issue No. 12

Council's current DCP 30 requires a minimum of one car space per dwelling 'less than 125sqm' or 'containing up to two bedrooms'. It would be appropriate for the new DCP to choose at least one of these standards to ensure consistent application of car parking requirements for any given application, preferably the 125sqm for ease of interpretation.

Response to Submission

It is considered appropriate to allocate a clear measure for the provision of parking for any development; therefore the following requirements have been incorporated into the draft plan:

- one car space per dwelling less than 125 sqm
- a minimum of two spaces per dwelling in excess of 125sqm

Submission Issue No. 13

Council's consistent position is to not support stacked or tandem car parking and this needs to be recognised in the DCP.

Response to Submission

Council's position is acknowledged and all references to stacked or tandem parking have been removed from the plan. In considering this position the development control plan now acknowledges the relevance of on-street car parking for visitors and overflow parking requirements.

The recognition of on-street parking spaces is considered particularly relevant in consideration of the development control plan objectives and requirements for landscaping areas and in particular the provision of deep soil zones, in preference to additional hard stand areas on an allotment.

Part 5 - Other Developments in the Residential Zone

Submission Issue No. 14

Ensure land uses are consistent with the Great Lakes Local Environmental Plan 1996 land use tables.

Response to Submission

Land uses have been fully reviewed and corrections made to ensure consistency within the final draft of development control plan.

CONCLUSION

Following public exhibition and the meetings held during public exhibition period, several minor amendments have been incorporated into the draft development control plan. 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 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 final draft *DCP 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.

5 PES - Draft DCP No.39 Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)

Index: SP-DCP-39; DCP Review 2007 Project
Author: Senior Strategic Planner - Alexandra Macvean
Strategic Committee Meeting: 8 September 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.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach); (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.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 IMPLICATION:

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.

LIST OF ANNEXURES:

- A: Public exhibition copy of Draft Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)
- B: Summary table of submission issued raised during public exhibition

LIST OF ATTACHMENTS:

- A: Final Draft Development Control Plan No.39 – Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach)
- 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 2 of Council's DCP Review 2007 Project. Stage 2 of the Project is aimed at providing comprehensive 'place based' controls for development within the Pacific Palms, as well as for low density residential development in Tea Gardens and Hawks Nest.

The draft Tea Gardens and Hawks Nest development control plans are presented to Council in separate reports.

The draft DCP for Pacific Palms was workshopped at Council's Strategic Committee Meeting on 10 March 2009. The draft DCP was then adopted for the purposes of public exhibition at the Ordinary Council Meeting on 24 March 2009.

PUBLIC EXHIBITION:

Draft DCP No. 39 - Pacific Palms (Elizabeth Beach, Blueys Beach & Boomerang Beach) was adopted by Council and placed on public exhibition for a period of fifty-one (51) days between 23rd April and 12 June 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.

A Public Meeting to discuss the draft DCP was held during the exhibition period at the Pacific Palms Community Centre on Wednesday, 20th May 2009, 6:30pm-8:30pm. Twenty (20) people attended the public meeting. Opportunities to attend weekly Public Information Sessions were also available during the exhibition period.

PUBLIC EXHIBITION SUBMISSIONS:

Eleven (11) individuals and organisations made submissions to Council during the public exhibition period. 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 'B' 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).

In addition to comments regarding the proposed design controls, the tables include suggested corrections to typographical errors, etc. All submission matters have been considered in preparing the final draft document presented to Council however, typographical and grammatical corrections have not been discussed in this report.

A summary of amendments to the proposed 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'.

Part 1 - Introduction

Submission Issue No. 1

Request for clarification of the scope of residential development affected by the plan.

Response to Submission

For clarity in the application of the plan's residential development controls, the heading of 'Part 4' of the plan has been changed from 'Controls for Single and Multiple Dwellings' to read 'Controls for Residential Development'.

Submission Issue No. 2

Request for clarification of the land affected by the plan; and the relationships with existing development control plans, is required.

Response to Submission

The 'Land and Development Covered by Plan' section on page 1 has been revised to make it clear that all land within the bold orange outline on Figure 1, is subject to the provisions of the plan.

This section has also been edited to make it clear that the development control plan shall:

- Supersede DCP 26 Boomerang Drive Pacific Palms; and
- Supersede DCP 30 Residential Urban Areas; and
- Prevail where there is any inconsistency with the minimum lot size requirements specified in DCP 31 Subdivision.

The 'Legal Framework' section on page 2 has been amended to:

- correspond with wording in the 'Land and Development Covered by Plan' section (page 1);
- remove all references to the Hunter Regional Environmental Plan 1997, which was repealed by the Department of Planning during public exhibition of the draft DCP; and
- expand the 'Exempt and Complying Development' and 'Guidelines' references to include other policy documents that should be considered prior to preparing a development application.

Submission Issue No. 3

Clarification of the relationship between the development control plan and those lands within the study area that are currently subject to a separate rezoning process and thus may have different development controls developed during this process.

Response to Submission

Throughout the public exhibition period it was made clear that any additional Specific Site controls created in association with Draft Great Lakes Local Environmental Plan No.13 - Pacific Palms, would be able to be accommodated within the draft plan, once they are developed and adopted through their own separate public exhibition and consultation processes.

In order to provide additional clarification and distinction of the 'Controls for Specific Sites' within the plan, it is proposed to separate the existing provisions of Part 4 - Controls for Residential Development' from the 'Controls for Specific Sites' by elevating these from a subheading to a new 'Part 5 - Controls for Specific Sites'.

The subsequent 'Parts' of the plan have been renumbered to reflect this change.

Please also refer to '(New) Part 5 Submission No.17 of this report.

Submission Issue No. 4

Do the objectives and controls reflect the vision and desired character of the community or Council?

Response to Submission

The objectives and controls proposed within the development control plan seek to reflect:

- findings of community consultation commenced in 2004;
- community consultation undertaken during public exhibition of the draft plan;
- matters raised in objections to previous development applications received and assessed by Council officers; and
- changes in legislation and matters for consideration since the introduction of Development Control Plan No.30 Residential - Urban Areas on 8 September 1999 and DCP No.31 Subdivision on 29 November 2001.

Part 2 - Structure Plan

Submission Issue No. 5

Concern has been expressed regarding the focus of the development control plan on biodiversity and protection of habitat within urban areas, particularly given the extensive assessment and negotiation already undertaken to rezone significant tracks of land to environmental protection zones for this purpose.

It was also highlighted that Pacific Palms, although mapped on Council's documents as a 'Wildlife Corridor' and having 'Key Habitat', is not subject to a Management Plan as outlined within State Environmental Planning Policy No.44 - Koala Habitat Protection.

Response to Submission

It was considered reasonable and appropriate to amend the focus of the plan from protection and maintenance of biodiversity in urbanised areas, to recognition of the existing and surrounding flora and fauna and its importance to the overall environment of Pacific Palms.

Throughout the development control plan, any references to biodiversity and koala habitat have therefore been refined to reflect this change in focus, encouraging instead the retention of existing native vegetation and use of native plants in landscaping.

Submission Issue No. 6

Desired future character is expressed only in terms of 'low scale' and 'low density' without recognition of opportunities for integrated housing or multiple dwelling development. DCP should not act to restrict or prohibit permissible development within the LEP.

Response to Submission

The draft development control plan does not restrict or prohibit permissible development under the Great Lakes Local Environmental Plan 1996.

The plan does however, reflect:

- 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 requirements; and
- the natural and service limitations of the locality to accommodate a higher density of development.

Part 3 - Site Planning Controls for All Developments

Submission Issue No. 7

One (1) submission was received from MidCoast Water which stated:

“Whilst the documents are largely seen by MidCoast Water as adequate, we believe that there should be a recognition of water and sewerage servicing requirements and a greater emphasis on Integrated Water Cycle Management.”

Response to Submission

In response to this submission, Council met with MidCoast Water and discussed including the following clause in the 'Site Analysis' section of the plan:

“Integrated Water Management

All proposals for development to implement an integrated approach to urban 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 & hazards
- Complies with relevant water supply, sewerage & stormwater guidelines & policies”

Submission Issue No. 8

Council's Transport Assets section provided comments on the draft clause requiring engineering reports on land affected by Sea Level Rise and Coastal Erosion (second bullet point).

Response to Submission

In the Environmental Hazards section of the draft DCP (p.8), the amended bullet point now reads:

"For development proposals on land identified in orange in Figure 4, a report from a suitably qualified geotechnical engineer and an engineer specializing in coastal marine processes shall be required, to determine suitable measures for protection of the building against coastal erosion and recession, changes in storm frequency and intensity and sea level rise."

Submission Issue No. 9

Council's Transport Assets section also provided comments with regards to the areas of Pacific Palms which are currently identified in Council's Coastal Erosion Policy. Council's Section 149 (5) Certificate currently provides a Notation regarding recession and severe erosion issues for land on the Winda Woppa peninsular and it was considered appropriate that:

- a similar Section 149 (5) Notation be provided for the affected lands in Pacific Palms; and
- a similar notation be incorporated into the development control plan's 'Environmental Hazards' section.

Response to Submission

The proposed Section 149 (5) Certificate Notation for all affected lots at Blueys and Boomerang Beaches would read:

“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.”

This notation would then also be incorporated into the development control plan with the additional note that:

“In the interim period, the engineering requirements will need to be addressed.”

Part 4 - Controls for Residential Development

Submission Issue No. 10

Density and Subdivision:

- No adequate justification for 900sqm for dual occupancy provided in DCP. If development achieves performance criteria and objectives, dual occupancy should be permitted on smaller sites. Onus should be upon proponent to provide justification that lot size sufficient for development.
- Character is “one where large expensive buildings are common place and where difficult allotments are developed (despite constraints) with dwellings and multiple dwellings... not one that is characterized with small shacks on large allotments of land.”
- Draft DCP seems to seek to alter existing character by imposing lower development density, not embracing and enhancing existing coastal village character.

Response to Submission

Density in this context refers to the number of dwellings permitted on a parcel of land and the permitted floor area of buildings in comparison to the area of the land. Density controls are an effective means of delivering strategic planning outcomes. In areas with higher order services, such as Foster and Tuncurry, a commensurate higher density dwelling yield is appropriate to provide more sustainable planning outcomes.

Conversely, in areas with lower order services and limited opportunities for expansion, a lower density is appropriate. The Pacific Palms Village has a relatively low level of service provision and is also situated within a particularly sensitive environment; consequently a low density urban form is appropriate. Moreover, the Village derives much of its character by the predominance of low density single dwelling houses set within a bushland setting.

Density can be effectively controlled by setting a minimum lot size and a maximum floor space ratio. Currently, the density permitted in Pacific Palms is one dwelling per 350sqm (DCP 31 Subdivision), However there is no maximum floor space ratio set by the current development control plans or the Great Lakes LEP 1996, but a floor space ratio of 0.4:1 generally applies to 2(a) Low Density Residential zone in other areas (DCP 30 Residential Urban Areas).

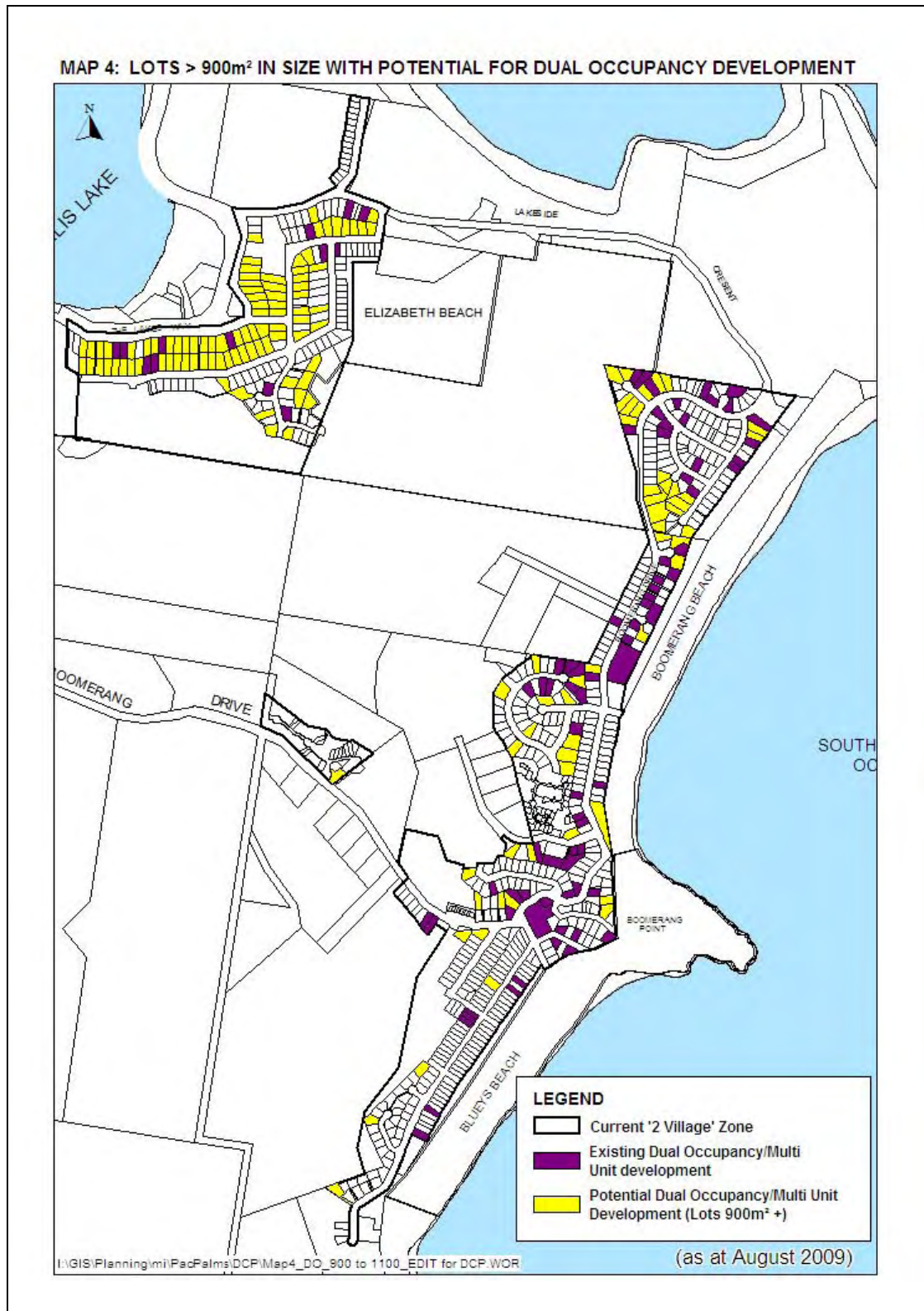
A future density that provides a balance between maintaining the low density character of the area and allowing for a reasonable level of development is warranted. In this regard, a number of low density scenarios were considered for implementation within the Pacific Palms, ranging between 325sqm and 450sqm to gauge the likely development opportunities.

Accepting that the character of the area is most suited to single detached dwellings, then a density standard which limits the number of dual occupancy developments and multi dwelling developments to larger allotments is considered appropriate in the existing residential areas. In this regard the site specific density controls can equally apply to 'Greenfield' (large undeveloped) sites in the study area.

A density standard of one dwelling per 450sqm was considered appropriate to maintain a low scale village setting over the majority of the area and allowing for larger lots over 900m² (141 or 23% of allotments available within the study area) to be developed for dual occupancy development. This was considered particularly important around the very sensitive Blueys Beach area where there are very few candidate lots capable of dual occupancy development (see figure below).

There is no design justification or information provided in the submissions to warrant a variation to this density standard in a village which is characterised as ecologically sensitive, bushfire prone and having limited services and facilities.

Retention of the density standard of one dwelling per 450sqm is therefore recommended and has been retained within the final version of the development control plan.



Submission Issue No. 11

The NSW Housing Code permits FSR of 0.66:1 on lots 450-600sqm. Council's existing ratio of 0.4:1 has 'been effectively superseded' by NSW Housing Code.

Response to Submission

Approximately only 118 allotments (19%) of properties within the 2 Village zone in the study area, are able to utilise the provisions of the NSW Housing Code due primarily, to bush fire prone land exclusions.

Therefore, Council has developed a development control plan which reflects the structure and standards of the NSW Housing Code and other State Policies, but contains development controls and objectives tailored to the environment and pattern of development evident within the Pacific Palms.

The floor space ratio is a useful tool for controlling the density of both buildings and land uses in an area. The floor space ratio helps determine the overall volume of building floor area and as a consequence, it also helps determine the area available for landscaping.

With relatively generous size lots in the Pacific Palms study area, a high floor space ratio has the potential for encouraging and allowing very large scale residential buildings that are neither compatible nor sympathetic to desired future character of the area.

It is common in sensitive coastal environments to have a floor space ratio of 0.4:1 thereby generally allowing 40% of the site area to be developed for a single storey building. This ratio allows a reasonable sized dwelling on all existing lots and on any allotment created by a future subdivision.

For example, on a 450sqm allotment, a site cover ratio of 40% can achieve a gross floor area of 180m² (excluding the garage) which generally equates to a four bedroom dwelling.

There is no justification or information provided in the submissions to warrant a variation to this density standard.

Therefore the retention of the floor space ratio limit of 0.4:1 is recommended.

Submission Issue No. 12

Site Cover and Landscaping –

- Maximum site cover of 40% is significantly less than 50% permitted in NSW Housing Code. Site Cover and Landscaping requirements should adopt NSW Housing Code provisions
- Site Cover controls of 150sqm & 120sqm are unclear and are only 'fixed' control within the DCP e.g. FSR and Site Cover are a percentage irrespective of lot size. This control does not appear to work well because of this contradiction between fixed and sliding scale controls.
- 50% native vegetation at natural grade is not practical and exceeds 20% requirement of NSW Housing Code.
- Significant reductions and limitations to development density through: 1 dwelling per 450sqm; 40% site cover; and 50% natural vegetation at natural grade. Compared to "*appropriate development at rate of 1 dwelling per 300-400sqm*" consistent with established character and still provide native vegetation as dominant feature.

Response to Submission

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 environment and pattern of development evident within the Pacific Palms.

Unlike the *floor space ratio* control which considers the gross floor area on all levels of a development, *site cover* only considers the footprint of the building on the ground.

Therefore, *site cover* is a useful planning tool for ensuring adequate land is set aside for landscaping and open space and it can also assist in breaking up the building form, further defining the future character of an area.

At present the Pacific Palms Village has a very low site coverage which provides the sense of openness that characterises the Village. In determining a site coverage standard, it is important that a balance between maintaining the existing character and allowing a reasonable level of development is achieved.

Consideration also needs to be given to the relationship to the floor space ratio to avoid consequential adverse impacts. For example, very low site coverage can encourage taller buildings which in turn can lead to impacts upon the views and privacy of nearby residences. Ideally, the site coverage standard should allow for a single storey building to comply with the 0.4:1 floor space ratio.

At the same time the site coverage standard should seek to prevent monolithic buildings or "MacMansions" by requiring a 'disaggregation' of building form, which is more compatible with the existing character of the Village. In this sense it is reasonable for any 'disaggregation' control to enable the development of a three bedroom dwelling within a single storey building structure.

The exhibited plan proposed a combination of two site cover controls and one landscaping control, being:

- a maximum site coverage of 40% for all structures within a development; and
- a footprint limit for structures within the development - 150sqm for single storey structures and 120sqm for two storey structures; and
- a minimum of 50% of the site to be set aside for landscaping.

The 40% site coverage would control the total area of the buildings on the site, and the square metre controls would assist in reducing the bulk of any single building component on a site. The site coverage definition included driveway areas and would have encouraged two storey buildings for larger dwellings.

However 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.

Moreover, a variation to the building footprint (site cover) control is also warranted to ensure that a single storey dwelling can be accommodated on all allotments.

Therefore, the following changes to the exhibited document are recommended:

- the building footprint site cover limits of 150sqm and 120sqm shall be removed;
- a general building design provision shall be introduced limiting building elements (e.g. wall lengths) to a dimension of 12m, thereby encouraging disaggregation of building bulk; and
- the minimum landscaping requirement for any site in the Pacific Palms study area shall be reduced to **30%**;

The proposed changes to the site cover and landscaping controls, in combination with the 0.4:1 floor space ratio requirement, would allow a typical three to four bedroom single storey dwelling to be built on a standard 450sqm allotment.

Submission Issue No. 13

A 1.5m vegetative strip between the edge of the driveway and the property boundary is restrictive particularly in Newmans Ave where the lots are 15m wide. Also question ability to landscape sloping sites without retaining walls for access and maintenance purposes.

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.

The provision of a 1.5m vegetated strip between side boundaries and driveways is considered desirable to both screen and reduce hardstand driveway areas. In areas where site frontages do not accommodate this, an alternative design may be submitted proposing a variation to this guideline, where the overall objective of maintaining the bushland setting can still be achieved.

Likewise, the maintenance of natural grades and existing vegetation is supported wherever possible to reduce the impacts associated with development. Again, this does not preclude the lodgement of an application which proposes to vary this guideline where the overall objective of maintaining the bushland setting can still be achieved.

Submission Issue No. 14

Setback:

- requirements should adopt NSW Housing Code provisions;
- minimum of 6.5m to garage is too onerous when most are 4.5m to dwelling and 6.0m to garage;
- minimum of 1.5m to side boundary is too onerous and sterilizes significant portion of allotment.

Response to Submission

The proposed front setbacks are generally consistent with the existing setbacks required by Council which allows for the provision of a reasonable sized front garden and assists with providing a reasonable envelope for single storey structures.

An articulation zone is encouraged in this setback area to provide for an active and visually interesting street frontage. This zone only applies to a width of 50% of the frontage and a depth of 1m in front of the 6m building line.

The principles of staggering the front building line, articulation with features such as balconies, and the recessing of garages at least 0.5m behind the front of the building to avoid garages dominating the streetscape, are also consistent with the NSW Housing Code.

The side setback of 1.5m will help provide a landscape strip and access way along the side of buildings and importantly, provide an overall separation of at least 3m between neighbouring properties. Taken together, these setbacks will 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.

Submission Issue No. 15

Orientation of buildings for energy efficiency & BASIX compliance should outweigh street orientation.

Response to Submission

The provisions of SEPP (Building Sustainability Index BASIX) 2004 do have a higher priority than the provisions of any local environmental plan or development control plan. However, 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 there is no reason for this orientation requirement to be incompatible with energy efficiency and/or BASIX compliance.

Submission Issue 16

Excavation depth restrictions do not make allowance for basement garages to allow a reduction in building footprints.

Response to Submission

The cut and fill provisions have been amended in consideration of the significant number of steep sites in the Pacific Palms and the potential for reducing building footprints through the provision of basement parking areas on these sites. In particular, the following exhibited provisions have been deleted:

- The maximum allowable depth of excavation on site is 1.2 m and must not extend more than 1.2 m beyond the external wall of the building if retaining walls are being used. -
- The maximum allowable fill is 1.2 m and must be contained wholly within the external walls of the building.
- Cut and fill involving benched areas for internal driveways and external landscape areas to be a maximum 25 m² per dwelling.

It is proposed that these prescriptive controls are instead replaced with the following controls regarding the appearance and intrusion of retaining walls associated with cut and fill:

- *Visually exposed retaining walls and terraces are not to be constructed to create a level lot and shall not exceed 0.9 m in height on the street frontage and 1.2m in all other areas.*
- *Where fences are located on top of retaining walls the maximum height of the combined structure shall not exceed 1.2m in front of the building line and 2.1m behind the building line'.*

Submission Issue No. 17

Council's current DCP 30 requires a minimum of one car space per dwelling 'less than 125sqm' or 'containing up to two bedrooms'. It would be appropriate for the new DCP to choose at least one of these standards to ensure consistent application of car parking requirements for any given application, preferably the 125sqm for ease of interpretation.

Response to Submission

It is considered appropriate to allocate a clear measure for the provision of parking for any development; therefore the following requirements have been incorporated into the draft plan:

- one car space per dwelling less than 125 sqm
- a minimum of two spaces per dwelling in excess of 125sqm

Submission Issue No. 18

Council's consistent position is to not support stacked or tandem car parking and this needs to be recognised in the DCP.

Response to Submission

Council's position is acknowledged and all references to stacked or tandem parking have been removed from the plan. In considering this position the development control plan now acknowledges the relevance of on-street car parking for visitors and overflow parking requirements.

The recognition of on-street parking spaces is considered particularly relevant in consideration of the development control plan objectives and requirements for landscaping areas and in particular the provision of deep soil zones, in preference to additional hard stand areas on an allotment.

(New) Part 5 - Additional Controls for Specific Sites

Submission Issue No. 19

Application of development control plan:

- Previously advised DCP will not apply to newly zoned areas. Lot 1 was part of development trade off which recognised that the rezoned areas could be developed without constraints due to provision of large conservation area. DCP will place acceptance of future LEP at risk.
- 'Part 5 - Additional Controls for Specific Sites' for clarity and future amendments to incorporate new Site Specific Controls developed in association with draft Great Lakes Local Environmental Plan Amendment No.13 Stage 2. This amendment would also require changes to the Contents Page, Introduction and subsequent 'Part' headings in DCP.

Response to Submission

'Part 5 - Additional Controls for Specific Sites' of the final DCP No.39 - Pacific Palms will eventually incorporate site specific development controls created in association with Draft Great Lakes Local Environmental Plan No.13 - Pacific Palms.

Please also refer to 'Part 1 – Submission 3' of this report.

Submission Issue No. 20

Provisions of CI 33B of LEP 1996 'do not need to be repeated' and 'give the DCP an authority it does not have.' Any specific controls for Site 1 should reflect integrated housing proposal provisions.

Response to Submission

The development control plan is reflecting the provisions of the LEP only, not assuming legislated status. The information is being provided in order to assist anyone looking to develop or build within this location.

The 6-lot integrated housing proposal which has already been submitted with the Department of Planning for 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.

Submission Issue No. 21

In regards to Site 2 in the 'Controls for Specific Sites', some of the development standards previously incorporated in DCP No.26 Boomerang Drive Boomerang Beach, may need review and updating to reflect the completed work, in particular:

- Sediment and erosion control plan isn't really needed at the development application stage and is normally asked for with construction;
- Flooding should make mention of climate change;
- Any fire management plan should be to the satisfaction of the Rural Fire Service;
- Reference to Council's 'Bushfire Protection Policy' should be replaced with reference to Rural Fire Service's 'Planning for Bushfire Protection';

- Colours and finishes should be submitted with a development application;
- Access and Traffic Generating Development is not longer required as access is complete;
- Conservation areas permitting dogs and cats only within the building envelopes is contrary to more recent developments where we have been excluding dogs and cats from being kept via 88B instruments/community title statements.

Response to Submission

The original DCP 26 provisions have been updated to remove repetition and reflect current requirements. The provisions with regards to domestic pets have been maintained to ensure that all residents within the development are subject to the same requirements for the protection of threatened animals.

Part 6 - Other Developments in the Residential Zone

Submission Issue No. 22

Ensure land uses are consistent with the Great Lakes Local Environmental Plan 1996 land use tables.

Response to Submission

Land uses have been fully reviewed and corrections made to ensure consistency within the final draft of development control plan.

Part 7 - Business Lands Development Controls

Submission Issue No. 23

Provisions for landscaping and consideration of mechanical ventilation in design are to be expanded.

Response to Submission

Provisions reviewed and additional information provided within the final draft of the development control plan.

Appendix A - Suitable plant species for landscaping

Submission Issue No. 24

Typographical and species name corrections required.

Response to Submission

Species list has been fully reviewed and corrections made within the final draft of development control plan.

CONCLUSION

Following public exhibition and the meetings held during public exhibition period, several minor amendments have been incorporated into the final draft plan. These amendments do not materially change the intent of the document, which is to encourage high quality design and development within a sensitive coastal 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.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 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.”

DIRECTOR ENGINEERING SERVICES

6 ES - DA669-08 - Subdivision of Lot 54 DP 1039382 and Lot 41 DP 1123812, Spinifex Avenue, Tea Gardens - Relocation of Easement

Index: Development Applications - Subdivisions Important
Author: Engineering Development Officer - Dean Hartmann
Strategic Committee Meeting: 8 September 2009

SUMMARY OF REPORT:

Council has recently approved the release of a subdivision over Lot 54 DP 1039382 and Lot 41 DP 1123812, Spinifex Avenue Tea Gardens, which requires the Common Seal of Council to be affixed to the associated 88B Instrument in order to extinguish an easement that has been relocated to the residue lot.

SUMMARY OF RECOMMENDATION:

That the Common Seal of Council be affixed to the 88B Instrument associated with the subdivision of Lot 54 DP 1039382 and Lot 41 DP 1123812 to formalise the relocation of the easement over the drainage berm within proposed Lot 43.

FINANCIAL/RESOURCE IMPLICATION:

Nil

POLICY IMPLICATIONS:

Nil

LEGAL IMPLICATIONS:

Nil

LIST OF ANNEXURES:

- A: Letter from Tattersall Surveyors and Dept Lands advising Common Seal of Council is required (DW Doc 1756968).
- B: Copy of Approved Plan of Subdivision and Plan Form 6, Lot 54 DP 1039382 and Lot 41 DP 1123812.
- C: Copy of 88B Instrument requiring Common Seal of Council.

LIST OF ATTACHMENTS:

Nil

REPORT:

Council has recently approved the release of a subdivision over Lot 54 DP 1039382 and Lot 41 DP 1123812, Spinifex Avenue Tea Gardens.

In conjunction with the creation of Lot 42 (Aged Care Facility), the existing berm that was located within the parent Lot 41 (now proposed Lot 43) was required to be relocated clear of the external boundaries of proposed Lot 42. The berm was originally constructed to direct surface flows to the existing major culvert to the north of the development site.

The works have now been completed in accordance with an approved design and the existing berm within proposed Lot 42 has been restored to natural surface conditions.

In order to formalise the relocation of the easement, the Common Seal of Council is required to be affixed to the associated 88B Instrument.

RECOMMENDATION:

That the Common Seal of Council be affixed to the 88B Instrument associated with the subdivision of Lot 54 DP 1039382 and Lot 41 DP 1123812 to formalise the relocation of the easement over the drainage berm within proposed Lot 43.

7 ES - Monthly Works Progress Report

Index: Corporate Management - Administrative Matters - Works Depot
Author: Operations Manager - Robert Fish
Strategic Committee Meeting: 8 September 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 IMPLICATION:

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 August Strategic Workshop of Council. Also a one-page summary of general maintenance activities for September is attached for Councillor information.

Major Projects Completed Include:

- **Lockett's Crossing Fish Passage:** The Operations Bridge Maintenance team installed a culvert in Lockett's Crossing to allow for fish passage earlier in the year. A concrete capping was also placed across the existing causeway at that time. Contractors working for the Department of Primary Industries (DPI) have now completed the project by undertaking rock work on the downstream side of the causeway which will allow the fish passage to function as designed. Works were partially funded by the DPI.

- **Coonabarabran Road to Coomba Road Drainage Repairs, Coomba Park:** Drainage pipes through a drainage easement between Coonabarabran Street and Coomba Road have been replaced during August. Existing pipes had collapsed at several locations causing subsidence of fill above the pipes though the easement compromising nearby properties. Works were completed by Tuncurry Depot Operations Service Requests team.
- **Nabiac Boat Ramp, Nabiac:** A new concrete boat ramp was constructed by Operations Bridge Maintenance team in July. Tuncurry Depot Operations Road Maintenance team have completed access and carpark roadworks in August to complete the project.
- **Bulahdelah Post Office:** Works were completed in August to rehabilitate the paths and landscaping fronting the Bulahdelah Post Office in Stroud Street. This location was regularly damaged by cars reversing into the roadside verge area. As part of the works a retaining wall was installed. Works were undertaken by Bulahdelah Depot Operations staff.
- **Hawks Nest Cycleway:** Works were completed in August on a new section of cycleway in Hawks Nest along Tuloa Avenue (between Yamba Street and Kingfisher Avenue) and Yamba Street. The completed works have improved access to the Hawks Nest business centre and Myall River parkland frontage. Works were undertaken by Tea Gardens Depot Operations staff.

Major Projects in Progress:

- **Head Street Pedestrian Signals, Forster:** Works have been undertaken to install a new set of pedestrian crossing signals on Head Street immediately to the east of Beach Street. The pedestrian signals replace the existing zebra crossing at this location. The works are being undertaken to improve pedestrian safety and are at the direction (and full funding) of the RTA. The signals have been operating since 14th July. Median pedestrian fencing and landscaping works were completed in August. Further pedestrian fencing of the corners of the roundabout, to improve direction of pedestrians to the two signalised crossings of Head Street, are now planned to occur.
- **John Wright Park Upgrade, Tuncurry:** Works commenced in July to upgrade John Wright Park. The project includes the upgrading of carpark areas, facilities and paths within the park. The facilities work is being funded through the Community Infrastructure grant. The carpark area is being fully reconstructed with new kerb and gutter and pavement to be placed. The carpark area will be completed in early September with path work and facility work to continue through September.
- **Forster Keys Boatramp, Forster:** Refurbishment of the Forster Keys Boatramp will commence in September. New concrete sleepers will be cast and installed for the boatramp and the carpark area will be resurfaced. Boatramp works will be completed by the Operations Bridge Maintenance team.
- **Green Point Drive Drainage, Green Point:** Works to improve drainage along Green Point Drive will be completed in September. Works have been completed between the eastern end of the village and Bottlebrush Close, with only a short section to the west of Bottlebrush Close remaining. Works being 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 are being undertaken by Tuncurry Depot Operations Heavy Patching and Concrete & Drainage Construction teams.
-

Smiths Lake Skatepark: Works commenced in August to construct a skatepark in Smiths Lake. Initial works involved earthworks for the site. Concrete works have now commenced on the footings for the skatepark and these works will continue in September. Works are being undertaken by Tuncurry Depot Operations Heavy Patching team and contractors.

- **Marine Drive Cycleway Extension, Tea Gardens:** Construction of a cycleway to the west of the public wharf on Marine Drive commenced in August. Initial works undertaken in August involved stabilisation of the rock wall along the waterway bank. Concrete path works will continue in September. Works are being undertaken by Tea Gardens Depot Operations staff.
- **Jimmy's Beach, Hawks Nest:** Hall Contracting have re-established the site and commenced sand replenishment of Jimmy's Beach during August. Pumping is programmed to be completed in September with over 30,000m³ of sand expected to be deposited along Jimmy's Beach. Landscaping and fencing will be undertaken by Tea Gardens Depot Operations staff on the completion of dredging.
- **Gravel Resheet The Branch Lane, The Branch:** Gravel resheeting works have commenced in August along deteriorated sections of the Branch Lane. Gravel is being supplied from a nearby commercial quarry. Selected sections of the road are being resheeted with remaining sections to have a maintenance grade undertaken. Works have also been undertaken to improve drainage along the road at selected locations. Works are being completed by Stroud Depot Operations staff.
- **Gorton's Crossing Bridge, Stroud:** Works are currently being undertaken to improve the structural integrity of Gorton's Crossing Bridge. An existing timber headstock is being replaced with a new concrete headstock and timber girders and decking in poor condition are being replaced. Works are being completed by the Operations Bridge Maintenance team.
- **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:

- **South/Bent Street Roundabout, Tuncurry:** Works are planned to commence on the construction of a roundabout at the intersection of South and Bent Streets in Tuncurry in late September. The roundabout will be fully funded by the Roads and Traffic Authority (Nation Building Program) with the purpose of the project to improve safety at the intersection. Design works are nearing completion for this project with approval to be obtained from the RTA prior to commencement.
- **Palms Estate Water Treatment Devices, Forster:** Works are planned to commence in September 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. Design and Investigation works have been finalised. 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.
- **Coomba Road Rehabilitation, Coomba Park:** Works are planned to be undertaken in October on the rehabilitation of Coomba Road in the vicinity of Kirribilli Avenue. Works to be completed will include reconstruction of the road pavement and improvements to drainage.

- **The Lakes Way – Black Spot Project, Bulahdelah:** Council's design section is presently preparing a design for the widening of 1km of road 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. Work will commence in September and is being funded by the Federal Government Auslink Black Spot Program. Works will be undertaken by Tuncurry Depot Operations Road Construction team and contractors.

Community Infrastructure Program Update

Council's work schedule under this program was approved on 23 March 2009 with works to be completed by 30 September 2009. Works on all projects have either been completed or have commenced.

The following projects have been completed:

- Civic Centre Disabled Access Upgrade, Forster
- Council Administration Building Disabled Facilities Upgrade
- Nabiac Boat Ramp Upgrade
- Minimbah Fire Shed Electricity Supply
- Bulahdelah School of Arts External Rehabilitation
- Wade Park Upgrade, Bulahdelah
- Hawks Nest Community Centre Kitchen Upgrade
- Stroud Swimming Pool Shade Shelter Replacement
- Stroud Road Picnic Area Upgrade
- Allworth River Baths Picnic Shelter Construction
- Bunyah Hall Roof Upgrade.
- Soldiers Memorial Hall Upgrade, Booral

Works are currently in progress for the following projects:

- Ocean Baths Water Pump and Concrete Surrounds Upgrade, Forster
- John Wright Park Facilities Upgrade, Tuncurry
- Harry Elliot Oval Seating Upgrade, Tuncurry
- Hall Extension, Coomba Park
- Boomerang Beach Facilities
- Marine Drive Foreshore Development, Tea Gardens
- Hawks Nest Community Centre amenities
- Bennett's Beach Facilities Replacement, Hawks Nest.
- Tennis Court Construction, North Arm Cove
- Limeburners Creek Recreation Area

Of the above projects in progress extensions for the program have been applied and granted for John Wright Park; Ocean Baths – Forster; North Arm Cove Tennis Court; and Hawks Nest Community Centre. These projects will all be well progressed by the end of September, however it is expected that some works will remain to be completed in October.

Minimbah Landfill Management Centre Update

Works have continued on the landfill pit excavation and the construction of the access into the Minimbah landfill site in August. Fine weather has seen earthworks progress rapidly and it is now expected that bulk earthworks for the internal access road between the landfill site and Aerodrome Road will be completed in September. Works will continue in coming months to complete the following:

- Complete earthworks and drainage for the internal access road between the landfill site and Aerodrome Road
- Security fencing at the entrance of the landfill access road off Aerodrome Road
- Fencing of conservation zones at selected locations surrounding the landfill site
- Remove and mulch cleared vegetation from the alignment of the upgrade of Glen Ora and Aerodrome Roads.

Once these works are complete further work is planned to be undertaken on Glen Ora Road and the internal access road to the landfill site in 2010.

RECOMMENDATION:

That the information contained in the report be noted.

DIRECTOR CORPORATE & COMMUNITY SERVICES

8 CCS - IPART Draft Report - Revenue Framework for Local Government 2009

Index: Government Relations - Inquiries - IPART
Author: Director Corporate & Community Services - Steve Embry
Strategic Committee Meeting: 8 September 2009

SUMMARY OF REPORT:

To present a Draft Submission to be lodged in response to the IPART Draft Report into the Revenue Framework for Local Government 2009.

SUMMARY OF RECOMMENDATION:

That the Draft Submission in response to the IPART Report be lodged by the closing date of 18 September 2009.

FINANCIAL/RESOURCE IMPLICATION:

Nil.

POLICY IMPLICATIONS:

Nil.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

Nil.

LIST OF ATTACHMENTS:

A: The Draft Submission was still being prepared at the time of writing the Report and will be circulated to Councillors prior to the Meeting.

REPORT:

At the Strategic Committee Meeting held on 11 August 2009 Council resolved:-

1. *That a detailed submission in response to the IPART Report be drafted for Council's consideration to enable the submission to be lodged prior to the closing date of 18 September 2009.*
 2. *That Council consider submitting a late Motion to the Local Government Association Conference as outlined in the Report, following the preparation of the detailed submission.*
-

The Report to the August Meeting provided an overview of the Report findings and identified some areas of concern. A detailed submission is currently being prepared and will be circulated to Council prior to the Meeting.

Submissions are required to be lodged with IPART by 18 September 2009.

The Local Government Association Conference will be held after the closing date for submissions on the IPART Report. If Council was to submit a late motion to the LGA Conference it could be along the lines of supporting the Local Government Association Policy position of opposing rate pegging.

RECOMMENDATION:

That the Draft Submission in response to the IPART Report be lodged by the closing date of 18 September 2009.

Keith O'Leary
General Manager