

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14th December 2004

DSDS1	TAR SEALING OF TWO SECTIONS ON POINT PLOMER ROAD
	FILE: T6-04-351 DEC

SUMMARY:

Reporting on Council's application to tar seal two sections of Point Plomer Road for which objections have been received.



Applicant:	Mr J Moore for Kempsey Shire Council
Subject Land:	Point Plomer Road
Owner:	Kempsey Shire Council
Zone:	1(a1) (Rural "A1" Zone) 7(d) (Scenic Protection Zone) 7(f1) (Coastal Lands Protection Zone) 7(f2) (Coastal Lands Acquisition Zone)

Proposed Development

The proposed development involves three stages. Stage1 involves formal road openings and road closures of Point Plomer Road so that the proposal is contained within a public road reserve. Stage 2 involves sealing a 1.86km section of the road south from the end of the existing seal. The third stage involves sealing a 1.94km section from north of Racecourse Headland to the existing seal at Delicate Camping Ground ([Appendix A](#)). Both stages 1 and 2 involve the following works:

- Upgrading of gravel road to a sealed rural road with a bitumen seal width of 6.0m on a 7.0m formation;
- Improvement of the safety of existing horizontal curves by minor realignment of these curves;
- Introduction of a 60km/h regulated speed zone along the sealed section of the alignment.

REPORT IMPLICATIONS

Statutory and Policy - Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C (1) of the Environmental Planning and Assessment Act 1979 with the following matters to be of particular relevance to the proposal.

Local Environmental Plan 1987 (KLEP 1987)

The Model Provisions 1980 (as adopted by KLEP 1987) provides that roads may be constructed and reconstructed without the need for development consent. This exemption applies to the entire road, except that part which passes within 100 metres of any SEPP 26 littoral rainforest or the section to be realigned. (See also SEPP 26 – Littoral Rainforest).

The objectives of the 1(a1) (Rural 'A1" Zone) are to:-

- Predominantly provide for agricultural uses.
- Preserve the visual amenity of the land.
- Provide for compatible tourist and industrial uses.

The objectives of the 7(d) Scenic Protection Zone are to:-

- Conserve the environmental and scenic quality of visually significant land by controlling development so that it will accord with the appearance of the landscape.

The objectives of the 7(f1) Coastal Lands Protection Zone is to:-

- Conserve the scenic quality and natural characteristics of foreshore land.
- Permit productive use of such land where the use does not prejudice its conservation value.

The objectives of the 7(f2) zone Coastal lands Acquisition Zone are to:-

- Prevent inappropriate development of land which should be purchased by the State in order to conserve it as an important part of the coastal landscape.

Additionally:-

- Clause 20 requires Council to obtain the concurrence of the Director prior to consenting to any development within the 7(f1) and 7(f2) zones.
- Clause 19 requires the consent for the clearing of trees or the altering of the ground within the 7(d), 7(f1) and the 7(f2) zones.
- Clause 32 requires Council not to grant consent to a development in a 7(d) zone unless it is satisfied that the development will not detract from the scenic quality of the land or the topographic feature of which the land is a part.

Pursuant to Clause 20, the application was referred to Department Infrastructure Planning and Natural Resources for concurrence who advises the Director has granted concurrence for the carrying out the proposed development in the 7(f1) and 7(f2) zones subject to the following conditions (such conditions are required to be included in any approval):-

1. *Erosion and sediment control structures shall be put in place to the satisfaction of Council, prior to construction and also until the area has stabilised in particular with regard to protection of the Goolawah Lagoon SEPP 14 area.*
2. *Regular inspection and treatment of the site to ensure that proliferation of weeds does not occur to the satisfaction of Council.*
3. *Rehabilitation shall be undertaken alongside the road as part of the construction works to the satisfaction of Council.*
4. *Low speed advisory/warning signage to be displayed at each end of the bitumen sealed section to reduce the risk of roadkill.*

It is considered that the sealing of the road and undertaking minor realignments will not:-

- Adversely affect or be adversely affected by 'the behaviour of the sea, any arm of the sea or any bay, inlet, lagoon, lake, body of water, river, stream, or watercourse.
- Adversely affect any beach or dune, or the bed, bank, shoreline, foreshore, margin or flood plain of the sea.
- Adversely affect the landscape or scenic quality of the locality.

The objectives of the zones are unlikely be compromised. The proposal involves works to an existing road, subdivision, sealing and minor realignment. Such works are not expected to adversely or significantly impact on the surrounding environment.

The proposal is unlikely to compromise the scenic quality of the area. The proposed sealed sections will have a positive effect on the surrounding environment by reducing airborne particulate matter, nutrient runoff and sedimentation.

The ecological assessment submitted with the application describes the small amount of vegetation to be cleared as 'not significant'. The report emphasises the importance of where the road alignment is parallel to SEPP 26 areas that 'no littoral rainforest be removed'. The report also emphasises the importance of implementation of sound erosion and sediment control measures during the construction and operational phases of the road. Provided the recommendations contained with the ecological report are incorporated in the proposal and considering the relatively small number of trees to be cleared

and negligible impact on the topographical features of the area, it is considered that Clause 32 of the KLEP is satisfied.

The project is not contrary to the North Coast Regional Environment Plan 1988.

State Environmental Planning Policy 26

Pursuant to Clause 7(1) of SEPP 26, any works within a defined SEPP 26 area are designated development and are required to be accompanied by an Environmental Impact Statement (EIS). It is considered that this proposal will not be undertaken within the area mapped as containing SEPP 26 littoral rainforest. As such, an EIS is not required.

Clause 7(2) of SEPP 26 requires for any work that may result in any:-

- disturbance or change or alteration of any landform; or
- disturbance or damage to any native vegetation within the 100m buffer zone [\(Appendix A\)](#) from area mapped as containing SEPP 26 littoral rainforest requires development consent and the concurrence of the Director-General.

The existing road has been continually maintained on its current alignment within 100 metres of the SEPP 26 Littoral Rainforest since before SEPP 26 was gazetted in 1988 and therefore enjoys existing use rights to be maintained in its current state. The upgrading of the road can be considered as an intensification of the existing use for which development consent is required under SEPP 26.

The applicant's consultant undertook an assessment of the proposals potential impact on the SEPP 26 areas. From the assessment it was concluded that provided the amelioration measures recommended in the assessment are implemented, the upgrading would not have an adverse impact on the SEPP 26 areas and adjoining vegetation communities. It was concluded that sealing of the road would in fact benefit these areas. It is also noted that the proposed realignments will increase the buffer to the SEPP 26 areas.

The assessment was forwarded to DIPNR for consideration. DIPNR subsequently granted conditional concurrence. Conditions included:

1. *Proposed rehabilitation of the buffer area is to include primarily endemic native littoral rainforest species.*
2. *Revegetation of disturbed areas to use sterile species for soil stabilisation.*
3. *Clearing within the buffer to the SEPP 26 Littoral Rainforest to be kept to the minimum necessary for the completion of the work.*
4. *Regular inspection and treatment of the site to ensure that proliferation of weeds does not occur to the satisfaction of Council.*

Council is obliged to include all the above conditions in any approval. To ensure that the above conditions are satisfactorily implemented it is considered reasonable to require the applicant to submit a Works and Rehabilitation Plan with the required Construction Certificate. Such a Plan should address and implement all the amelioration measures recommended in the ecological assessment submitted with the application and DIPNR's conditions.

Pursuant to Clause 9 of SEPP 26, a copy of the application was forwarded to the Department of Environment and Conservation (DEC) (former NPWS) for comment. DEC advised they have:

'No objection to the realignment and tar sealing of the road in the sections described in the application. The realignment will result in an increase in buffer width to the rainforest whilst the tar sealing should reduce dust impact, nutrification and associated weed invasion. Rehabilitation of the buffer with appropriate rainforest species is recommended after the roadworks are complete'.

The above recommendation regarding rehabilitation of SEPP 26 should be included as a condition to be addressed in the Works and Rehabilitation Plan for the required Construction Certificate. The Plan is to include details on the type, number and location of proposed vegetation species to be used in the rehabilitation.

SEPP 44 – Koala Habitat Protection

An assessment of potential koala habitat in the development area was undertaken (due to the minimal amount of clearing, every tree was inspected) No Scheduled 2 listed trees were identified in the study area. As such the proposed development area does not contain potential or core koala habitat.

SEPP 71 – Coastal Protection

Pursuant to Clause 7(b) of SEPP 71, Council is obliged to consider the matters listed under Clause 8. It is considered that the proposal is consistent with all Clause 8 matters. The following matters are considered particularly relevant to the proposal (other relevant matters are referred to elsewhere in the report e.g: Aboriginal heritage impacts:

- Clause 8(a) Aims of the Policy – It is considered the proposal will:-
- Contribute to the management and protection of the natural, cultural, recreational and economic attributes of the NSW Coast. The proposal involves improvements to an existing road. The minor works involved are considered unlikely to have any adverse impacts on the surrounding environment.
 - The proposed improvements to the road are unlikely to have any adverse impact on Aboriginal culture or places (refer to comments below)

- The sealing of an existing road is considered to have negligible impacts on the visual and 'beach amenity' of the area. It is considered reasonable to expect a decrease in dust in the area.
 - The coastal vegetation is expected to benefit from the proposal by reducing dust, sedimentation and subsequent nutrification.
 - It is considered the proposal will not negatively impact upon public access along the foreshore.
- Clause 8 (d) It is considered the proposed development is suitable in the locality. The proposal involves improvements to an existing road. The road works are considered minor, involve minimal disturbance to the vegetation and geology of the area. No significant adverse impacts have been identified or a likely to occur as a result of the proposal.
- Clause 8 (g) An ecological assessment of the proposal has been undertaken. It has been concluded that with appropriate conditions there will be no significant impact on the ecology of the area.
- Clause 8 (i) Goolawah Reserve forms a significant wildlife corridor from Hat Head National Park to Limeburners Creek Nature Reserve. It is considered the proposal will be unlikely to have any adverse impacts on the corridor.
- Clause 8(j) The proposal is not likely to result in any adverse impacts or be adversely impacted by natural hazards and coastal processes. Council records indicate that the proposed works are not subject to the 1 in 100 year flood. However, the road may be subject to inundation during storm events. The upgrading of an existing road is likely to improve emergency vehicle responses/access in the instance of fire, flood etc.
- Clause 8 (m) The proposal is adjacent to SEPP 14 Wetlands (Goolawah Lagoon). The proposal is likely to reduce nutrient runoff and sedimentation into the wetlands. It is considered that erosion control and rehabilitation measures be incorporated in any condition of approval to maintain/enhance the integrity of the wetland. The upgrading works are unlikely to disturb potential or actual acid sulphate soils. Details of management practices to be employed during construction (including proposed detention pond(s)) to minimise potential disturbance, should be included in a Works Rehabilitation Plan with the required Construction Certificate.
- Clause 8(n) (The potential impacts on heritage are discussed below)
- Clause 8(p(i)) The sealing of two sections of Point Plomer Road is unlikely to have any adverse cumulative impacts. Due to the high volumes of traffic use, the applicant has

advised that is not economically feasible to maintain the gravel road and that sealing sections of the road would improve road user safety. Any additional sealing would be subject to further assessment.

Ecological Impacts

Pursuant to the *Threatened Species Conservation Act (TSCA) 1995*, *Environmental Protection and Biodiversity Conservation Act 1999* and *The Goolawah Trust Reserve Management Plan*, an ecological assessment of the site was undertaken. No threatened species were recorded within the study area. However, a number of threatened species have been recorded or have potential to occur in the locality. All such species were subject to assessment. From the assessment it was concluded that *'provided the recommendations are implemented, the proposal is considered unlikely to have any significant impact on any threatened species or ecological community'*. The key recommendations identified by the consultant are:-

- Dust control during construction
- Low speed zoning and advisory signage
- Minimum clearing to be undertaken
- Implementation of sediment pond

As discussed in SEPP 26 comments above, it is considered reasonable to require all recommendations made within the ecological assessment to be included in any conditional approval.

It is noted that littoral rainforest on the north coast of NSW is listed as an endangered ecological community under the TSCA 1995. The ecological assessment submitted with the application was undertaken prior to this listing but the application was lodged after. However, the consultant undertook assessment of the SEPP 26 and concluded that there would be no significant impact on any ecological community. After subsequent discussions with the consultant and completion of an eight-part test it is concluded that there will be no significant impact on the endangered ecological community. It is considered that taring the road will have a positive effect on the littoral rainforest community.

Archaeological and Heritage

There are known to be a number of significant aboriginal sites in the locality of the proposed development. A search of the National Parks and Wildlife Services data base indicated that there were nine (9) known sites recorded in the general area of Crescent Head and Point Plomer Road these four (4) sites were recorded as being in close proximity to the Southern end of the Racecourse Headland Section, these included two (2) aboriginal Middens and two (2) Bora Ceremonial sites.

The DEC (former NPWS) walked the site with Council representatives and advised that the said sites did not fall within the road reserve nor were they

affected by Council's proposal, and therefore Council would not be required to lodge a Consent to Destroy licence. A copy of DEC correspondence is included in [\(Appendix B\)](#). It is noted that DEC recommend the applicant employ at least two scouts to monitor the area during construction and that the applicant consult with DEC to determine appropriate scouts. Such recommendations should be included in any conditional approval.

Members of the Aboriginal Land Council have walked the site and advised that no significant artefacts were found and that no objection is raised to the proposal provided that all 'works are in the immediate vicinity of the road' [\(Appendix C\)](#).

The applicant has also advised that members of Council's Culture and Heritage Sub-Committee (Aboriginal Liaison Committee) walked the site with Council officers and that no objections were raised. The Sub-Committee subsequently recommended at its meeting of 5 March 2004:

'That the Culture and Heritage Sub-Committee is of the view that sealing of some sections of Point Plomer Road for safety reasons only on the current alignment will not affect the Aboriginal culture so long as site officers of the Dunghutti and Birpai communities are employed throughout the excavation including all associated works to protect the culture and heritage interests of the aboriginal community and that there be no further sealing of Point Plomer Road.'

It is noted that the Dunghutti Elders Council have lodged strong objection to the proposal in regard to concerns about potential impacts the tarring of the road may have on cultural heritage values of the area. As a result of these concerns the NSW Heritage Office requested a meeting with Council and Dunghutti Elders representatives to discuss these concerns. A meeting was held on the 8 July 2004. Subsequent to the meeting, the Office recommended Council 'peg out' the sections of the road to be sealed and hold a further meeting on-site with the Dunghutti Elders. The site has been 'pegged', however a second meeting has been unable to be arranged to date due to the unavailability of Heritage Office staff. A copy of the Office's correspondence is included in [\(Appendix D\)](#).

Recent media attention has been focused on Point Plomer Road being listed on the National Trust of Australia's (NSW) annual list of Australia's Most Endangered Places. It is argued that the road is 'rustic' and contributes to the areas history, culture and scenery.

It is considered that the Point Plomer locality is of environmental and heritage significance. However, it is also considered that tar sealing two sections of the road will not compromise these environmental and heritage values. It is considered that the proposed works will not adversely affect the history culture and scenery of the locality. As previously mentioned, Council is in the process of preparing a LEP for the Point Plomer area aimed at providing

locality-specific development controls so as to protect the key elements that comprise the unique character of the area, whether or not the road is sealed.

Traffic

The applicant has provided details suggesting that it is not economically viable to maintain the gravel road due to such high usage. It is argued that improvements to the roads surface in the two identified sections would also improve road user safety.

In a Report presented to Council in May 2003, Council was advised that Point Plomer Road had an average daily traffic volume of 260 vehicles at off peak times, to an average of 1100 vehicles per day during the Christmas period. It was also presented that there is a 40% increase in crash incidence on gravel roads compared to sealed roads. Pursuant to Council's DCP 36 – Engineering Guidelines for Subdivision and Development (table D1.8), roads with 20 - 200 vehicle movements per day should be sealed. It is considered that upgrading the road will be more economically sustainable in the long term and improve road user safety. Whilst Council has received numerous objections to the proposal, numerous requests to seal the road (primarily due to safety concerns and constant road surface deterioration) have been received in the past.

Public Exhibition

The development application was advertised in accordance with Council's Advertising Policy, with 35 objections being received ([Appendix E - Part 1](#), [Part 2](#), [Part 3](#), [Part 4](#), [Part 5](#), [Part 6](#), [Part 7](#), [Part 8](#), [Part 9](#), [Part 10](#), [Part 11](#), [Part 12](#), [Part 13](#), [Part 14](#), [Part 15](#), [Part 16](#), [Part 17](#), [Part 18](#), [Part 19](#), [Part 20](#), [Part 21](#), [Part 22](#), [Part 23](#) and [Part 24](#)). It is noted that objections have been included beyond the advertising period up until the Council Report deadline. The objections can be summarised as follows:-

Objection	Planning Comment
<p>1 The proposal will endanger and destroy Aboriginal significant sites and approval to seal the road is not given by the Dunghutti Elders Council.</p> <p>Aboriginal people have been unfairly represented.</p> <p>The road runs through and over sacred sites</p>	<p>1 Consultation and advice has been undertaken to determine whether the proposed upgrading works will impact of significant Aboriginal sites. No areas have been identified that would be affected by the proposal.</p> <p>Refer to 'Archaeological and Heritage' comments.</p>
<p>2 Point Plomer Road is part of a Native Title Claim</p>	<p>2 Council is not aware of any outcome to this Claim. Refer to</p>

		'Archaeological and Heritage' comments.
3	The minutes of the Cultural and Heritage Subcommittee of the KSC are misleading and inaccurate.	3 Any Committee or Subcommittee meeting of Council is required to be minuted and those minutes are required to be subsequently adopted by that same Committee at the following meeting. Amendments to minutes should be made at this stage if any member felt they were misleading.
4	Past dealings with KSC has occasionally lead to the desecration of Aboriginal sites.	4 Refer to Planning Comment 1 and 'Archaeological and Heritage' comments.
5	There will be irreparable damage to the environment as a result of the proposal.	5 With appropriate conditions of consent (including rehabilitation and erosion control plan) there is no evidence to suggest that there will be any adverse impact on the environment as a result of the proposal. Refer to 'SEPP 71, 26 and ecological' comments.
6	Native plants and animals will be compromised as a result of the proposal.	6 Refer to 'ecological' comments.
7	An Environmental Impact Statement Should be prepared.	7 The proposal is not designated development. Refer to 'SEPP 26' comments.
8	The cumulative impact the road will have on the locality in terms of increased visitation and development has not been addressed.	8 The locality receives high visitation rates at present and the applicant argues that it is not economically viable to maintain a gravel road (refer to 'Traffic comments'). Land use issues in the locality are being addressed by Council as a separate issue (Plomer LEP) and any significant future development is subject to Council, and possibly DIPNR determination.

9 The ecological assessment submitted with the application is not adequate or representative of the potential impacts the proposal will have.

10 The proposal will increase road kill.

9 The ecological assessment has adequately addressed the provisions of the TSCA 1995, EPBC Act 1999, and SEPP 44. The available habitat within the road reserve and potential impacts adjacent to the proposed works are not considered to be significant. It was concluded that the proposal would have positive impacts on the ecology of the area. The applicant's ecological consultant has a credible history of ecological assessment in the immediate and surrounding locality. The methods used during the survey are considered to be adequate and the precautionary principle has been used where information may be inconclusive (i.e. species not found).

Refer to 'ecological' comments

10 The death of native animals by motor vehicle collision is common on many roads throughout the Shire. The applicant has proposed to implement speed restrictions (60kph) on the proposed sealed sections which is currently derestricted. It is not considered that road kill will place any viable local flora and/or fauna population at risk of extinction and compromise an endangered ecological community.

As outlined above, DIPNR has granted concurrence provided that fauna advisory/warning signs are provided at each end of the sealed sections of the road.

<p>11 The proposal would detrimentally affect tourism in the area.</p>	<p>Refer to 'Ecological' comments.</p>
<p>12 The proposal is not clear.</p>	<p>11 Increasing visitation rates to Limeburners Creek Nature Reserve and the Point Plomer locality suggest that the area is a popular tourist destination. The proposed roadworks are a direct response to increased road usage and there is no evidence to support the view that sealing section of the road will negatively impact on tourism.</p>
<p>13 Public consultation is inadequate.</p> <p>The 10-day advertising period is a cynical disrespect of the public.</p>	<p>12 The proposed road works have been broken down into 10m chainages. This is depicted in the DA. (Appendix A) The proposal is not considered to be misleading.</p>
<p>14 The cost of Council photocopying is prohibitively expensive – over \$270 to copy DA.</p>	<p>13 The proposal was advertised in accordance with Council's Advertising Policy. Objections to the proposal were accepted and taken into account from the time of advertising until the required deadline for this Council Report (five (5) months).</p>
<p>15 Has the Crown approved the proposal? Is the current road Dedicated?</p>	<p>14 All photocopying is in accordance with council's 'Fees and Charges'. On several occasions copies of the DA were made available for members of the public to take away and photocopy elsewhere.</p>
<p>15 Has the Crown approved the proposal? Is the current road Dedicated?</p>	<p>15 Point Plomer Road is a Dedicated Road. It is noted that the current road deviates out of the public road reserve. It is proposed to undertake minor realignments and subdivisions so as the road is contained within the road reserve. This process involves consultation with the Crown and respective landholders. The consent of all</p>

		owners is required to be obtained prior to the issue of any consent.
16	Sealing the road is not economically sustainable and the costings of maintaining and sealing the road are misleading. Sealing the road is a waste of ratepayer's money.	16 The applicant proposes to seal two of the 'worst' sections of the road that are subject to deterioration and considered to compromise road user safety. Refer to 'Traffic' comments.
17	Sealing will compromise wildlife corridors.	17 Minor realignments of and sealing the existing road are not expected to compromise wildlife corridors. Refer to 'Ecological' comments.
18	Point Plomer Road is 'rustic', of national and cultural heritage significance and is an icon.	18 Refer to 'Archaeological and Heritage' comments.
19	Speed restrictions will not be effective.	19 Speeding is an offence. Speed zones and signage on rural roads are considered acceptable strategies to manage the speed of vehicles.
20	A Species Impact Statement (SIS) is required.	20 It is considered there will be no significant impact on threatened species. The ecological assessment has adequately addressed the TSCA 1995. A SIS is not required. Refer to 'Ecological' comments.
21	Littoral rainforest is listed as an Endangered Ecological Community. This has not been addressed. Littoral rainforest will be destroyed.	21 Refer to 'SEPP 26, 71 and Ecological' comments.
22	A Koala Plan of Management is necessary.	22 Refer to 'SEPP 44' comments.
23	SEPP 71 has not been	23 Refer to 'SEPP 71' comments.

	considered.	
24	The visual and scenic qualities of the area will be affected.	24 Refer to 'SEPP 71 and KLEP' comments.
25	The proposal does not meet the needs of the community. There is extensive community opposition to the proposal.	25 Council has received 35 objections to the proposal and has received petitions in the past requesting that the road is not sealed. It is noted that Council has also received concerns in regard to the poor quality of the road at times. Due to high usage of the road it is argued that to improve safety and economic sustainability, the best option at present is to tarseal sections of the road. Refer to 'Traffic' comments.
26	Tarring the road will compromise the community's right to access a natural coastal environment, devoid of development.	26 Access to the Point Plomer area will not be adversely affected by the proposal. Refer to Planning Comment 8.
27	The proposal should not be approved until an LEP for the area has been completed.	27 The application should be assessed on its merits. The proposed draft LEP will proceed whether or not the road is sealed. Refer to planning Comment 8 and 31.
28	Speed humps and chicanes should be installed to slow traffic instead of sealing the road.	28 Traffic calming devices can be an effective strategy to slow traffic in urban areas. There are no AUSTRROAD standards or other guidelines that recommend speed humps or similar on rural roads. Speed zonings and advisory signage is considered more practical.
29	Pollution runoff to Goolawah lagoon and impacts to adjacent SEPP 14 wetlands and SEPP 26 areas is unacceptable.	29 It is considered reasonable to expect a reduction in sedimentation and nitrification as a result of the proposal.

30 The DA form has been completed incorrectly.

31 The DA has not taken into account the recommendation of Council's Point Plomer Road LEP and Community Reference Committee.

Tar sealing will ultimately increase road usage, potentially increasing development and creating further stresses on the sensitive environmental location.

Gravel road with a clay base often leads to soil particle dispersion and sedimentation.

Refer to 'SEPP 71' comments.

Refer to 'SEPP 26' comments.

30 The DA form is supported by a Statement of Environmental Effects, which expands on the requirements of the 'form'. It is considered that the application satisfies the provisions of the EP&A Act 1979 and associated Regulations.

It is noted, however, that Council requires the consent of the respective landholders where the road deviates out of the road reserve. This must be obtained prior to final determination of the application.

31 The Point Plomer Road LEP and Community Reference Committee was established to review the current planning controls for the Point Plomer locality. It is noted from the Committee Minutes and subsequent Report on Findings and Recommendations that the 'majority of the Committee members believed the road should be retained wholly as a consistently good quality gravel road. These members were concerned that even partial sealing of the road would lead to increased development pressures along Point Plomer Road and additional tourist numbers'. As previously discussed, it is considered that the LEP will restrict development out of character with the locality. Increased tourism and visitation to the

32 Concern is raised that Section 228 of the Environmental Planning and Assessment Regulation (EPAR) has not been fully taken into account.

area is inevitable due to the areas environmental and recreational attributes, whether the road is sealed or not. It is largely in response to such pressures that the sealing of the two 'worst sections' has been proposed. A significant proportion of the road will remain to be gravel.

32 Section 228 of the EPAR refers to Part 5 Assessment and the need for Environmental Impact Statements. An EIS is not required for the proposal. It is considered that all relevant matters concerning the activity's impact on the environment have been addressed.

Social Implications

Numerous objections have been received in relation to the proposal. However, it is considered that with appropriate conditions of consent (particularly providing for Aboriginal scouts during works) the proposal is unlikely to have any adverse social or cultural implications. As discussed throughout the report, Council is in the process of preparing a Draft LEP for the area to manage any future development in the Point Plomer locality. The underlying trend among the majority of the objections received refer to the potential wider impacts associated with development pressures in the area and their potential to compromise items that are culturally and/or environmentally significant. It is considered reasonable to expect cultural heritage issues (among other planning controls) to be further addressed and included in the provisions of the proposed LEP for the area.

Environmental Implications

As discussed throughout the Report, it is considered that the proposal will not result in any adverse environmental impacts, provided appropriate conditions of consent are imposed (including a Works and Rehabilitation Plan). It is considered reasonable to expect environmental benefits as a result of the proposal in the form of a reduction in dust, improvement in drainage and reduction in sedimentation.

Economic Implications

The maintenance and upgrading of any local road requires funding. Such funds are usually obtained from grants, loans and revenue raised from Section 94 Contributions and/or Rates. It was reported to Council in May

2003 that the proposal would cost approximately \$550 000. It was reported Council would require a loan to achieve such funds. With appropriate asset management, it is argued that the proposal would result in longer-term economic savings compared to the maintenance and upgrading of the current gravel road. It is considered that maintenance of the two worst sections of the road in a gravel state is not economically sustainable.

RECOMMENDATION

- A That consent be granted subject to the following conditions:**
- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
 - 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.**
 - 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.**
 - 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
 - 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
 - 6 Before the commencement of site works, demolition or building, the following activities must be completed:**
 - a Installation of soil erosion and sedimentation control devices.**
 - 7 Proposed rehabilitation of the buffer area is to include primarily endemic native littoral rainforest species.**
 - 8 Regeneration of disturbed areas to use sterile species for soil stabilisation.**

- 9 Clearing within the buffer to the SEPP 26 Littoral Rainforest is to be kept to the minimum necessary for the completion of the work.
- 10 Regular inspection and treatment of the site to ensure that proliferation of weeds does not occur to the satisfaction of Council.
- 11 At least two (2) Aboriginal site monitors are to be employed before initial earth works commence. Consultation is to take place with relevant representatives from the Department of Environment and Conservation (DEC) regarding appropriate site monitors. Monitors are to be present during all excavation. In the event that a significant artefact is discovered works in that area are to cease until consultation has taken place with DEC and DEC is satisfied that appropriate measures have been employed.
- 12 The recommendation contained within the ecological assessments submitted with the assessment dated September 2003 and prepared by Darkheart Eco Consultancy are to be adopted and implemented as part of the development.
- 13 The plans for the required Construction Certificate are to include a Works and rehabilitation plan for the site. The rehabilitation plan is to address all conditions of this consent and is to include an erosion and sediment control plan in accordance with the "Blue Book" published by LANDCOM.
- 14 Proposed rehabilitation of the buffer area is to include primarily endemic native littoral rainforest species.
- 15 Revegetation of disturbed areas to use sterile species for soil stabilisation.
- 16 Clearing within the buffer to the SEPP 26 Littoral Rainforest to be kept to the minimum necessary for the completion of the work.
- 17 Regular inspection and treatment of the site to ensure that proliferation of weeds does not occur to the satisfaction of the Council.
- 18 Erosion and sediment control structures shall be put in place to the satisfaction of Council, prior to construction and also until the area has stabilised in particular with regard to protect of the Goolawah Lagoon SEPP 14 area.

- 19 Regular inspection and treatment of the site to ensure that proliferation of weeds does not occur to the satisfaction of Council.
- 20 Rehabilitation shall be undertaken alongside the road as part of the construction works to the satisfaction of Council.
- 21 Low speed fauna advisory/warning signage to be displayed at each end of the bitumen sealed section to reduce the risk of roadkill.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES