

DEVELOPMENT CONTROL PLAN NO 37:

HAT HEAD



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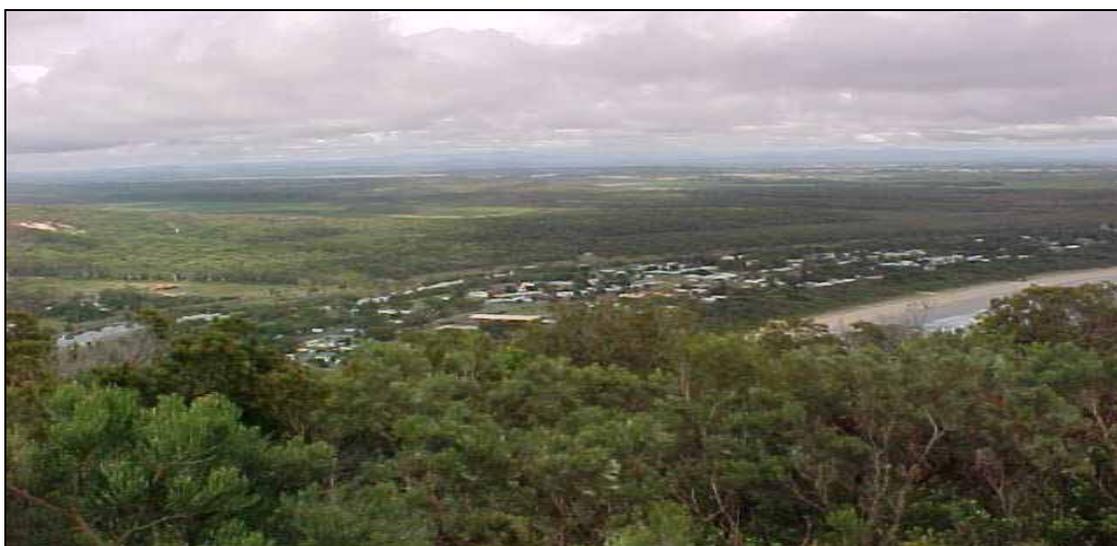
1.0 INTRODUCTION

Hat Head is a unique coastal village characterised by low density single and two-storey development. The village experiences large seasonal fluctuations in population related to holidaymakers drawn to the village's natural features including beaches, headlands and creek.

Due to factors such as the scarcity of coastal land, demographic shifts in the general population and the advent of a sewerage system to service the village, pressures to permit further development are likely to increase substantially.

Having regard to the large seasonal fluctuations in the population and the fact that the system was primarily designed to cater for the needs of the existing village, there is a need to ensure that development potential generated by any excess capacity will proceed in an orderly manner without any diminution of the characteristics which make the village unique.

The plan seeks to achieve this objective by specifying a servicing strategy and by identifying specific development controls to protect the character of the village.



1.1 CITATION

This plan may be cited as “*Development Control Plan No 37: Hat Head*”.

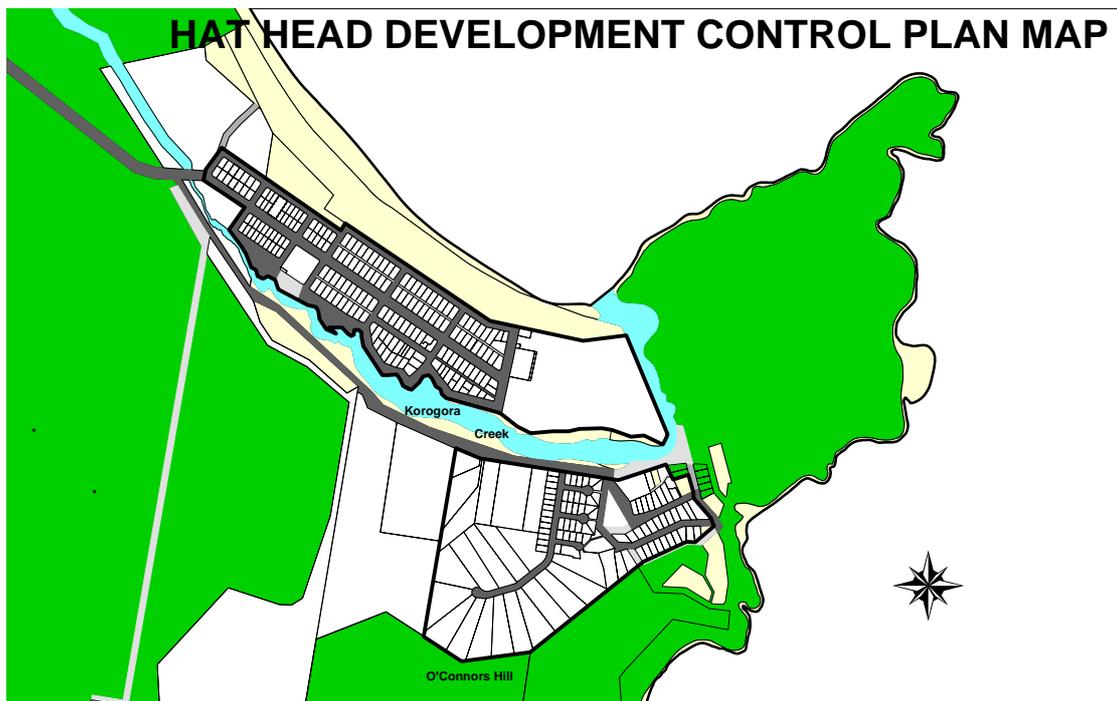
1.2 COMMENCEMENT

This plan was adopted by Council on 8 April 2003 and shall be effective from 15 April 2003.

1.3 SCOPE OF THIS PLAN

This plan applies to development on land within the Village of Hat Head zoned 2(v) Village under Kempsey Local Environmental Plan 1987 as edged heavy black on the Hat Head Development Control Plan Map.

This plan applies to all proposals for *medium density development*, single *dwelling*s, additions to existing dwellings, *motels*, *shops*, *commercial premises*, *subdivision* and *tourist facilities* within the village of Hat Head which are likely to generate an increased demand for sewerage and water services.



1.4 PURPOSE OF THIS PLAN

The purpose of this plan is to:-

- a) identify the important natural and man-made features which comprise the unique character of the village;
- b) ensure that development is in keeping with the existing character of the village;
- c) ensure that development does not exceed the capacity of the infrastructure, and topographical constraints of the village;
- d) encourage innovative building design and site usage in keeping with the existing character of the village;

- e) protect Korogora Creek from any adverse effects due to stormwater runoff;
- f) ensure that development will not be subject to any unacceptable impacts from bushfire, whilst minimising the amount of clearing required.

1.5 DEFINITIONS

A list of definitions used in this plan is at (*Appendix 1*). Definitions that appear in the list are highlighted in *italics* as they appear in the text of the plan.

1.6 RELATIONSHIP TO OTHER PLANS

1.6.1 Environmental Planning Instruments

Section 72 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 require this Development Control Plan (DCP) to be consistent with relevant State Environmental Planning Policies (SEPP's), Regional Environmental Plans (REP's) and the Local Environmental Plan (LEP) for the Shire.

In particular:-

SEPP No 5 - Aged and Disabled Housing and SEPP No 6 - Number of Storeys in a Building, are complementary to the DCP.

SEPP No 71 – Coastal Protection provides that the Minister for Infrastructure Planning is the consent authority for certain types of developments and requires referral of certain other types of developments to the Department for comment. Council must take any comments into consideration when determining such applications which will prevail over any inconsistency with this plan. This DCP is intended to be complementary to SEPP 71.

The relevant REP is the North Coast Regional Environmental Plan 1988.

Kempsey Local Environmental Plan 1987 (KLEP 1987) is the relevant principal LEP for Kempsey Shire.

In cases of any inconsistency between this DCP and an environmental planning instrument, the environmental planning instrument will prevail.

1.6.2 Other Codes and Policies

Other codes and policies that are relevant include:

- Flood Plain Management Strategy Policy
- Parking Code

- Building Alignments Policy
- Height of Buildings Policy
- Tree Preservation Order
- DCP No. 22- Local Housing Strategy
- DCP No. 24- Access and Mobility
- DCP No. 30- Exempt & Complying Development
- DCP No. 31- Energy Smart Homes
- DCP No. 36- Engineering Guidelines for Subdivision and Development
- Building Code of Australia
- Guidelines for Erosion and Sediment Control
- Section 94 Contributions Plan for Outdoor Recreation
- Development Servicing Plan for Water Supply
- Development Servicing Plan for Sewerage

1.6.3 Relationship to DCP 22 – Local Housing Strategy (Urban Areas) 2001

This plan amends DCP 22 to the extent that Hat Head will no longer be classified as being within a designated “low density” area and in respect to certain development standards specified by this plan.

All other relevant provisions of DCP 22 apply to development within Hat Head. This plan shall prevail to the extent of any inconsistency with DCP 22.

2.0 HOW THIS PLAN WORKS

The plan is divided into two (2) primary sections:-

- **Servicing Strategy** – which details the sequencing of development and the process Council will follow in ensuring that the sewerage and water supply systems have the capacity to cater for additional development in an ecologically sustainable manner; and
- **Key Landscape Elements** – which identifies the key landscape elements requiring protection and the means proposed to protect those elements.

3.0 SERVICING STRATEGY

In respect to infrastructure, the potential for Hat Head to support any additional development will be determined by the ability of the sewerage system to cope with peak demand periods and the adequacy of the village water supply.

There are two (2) main variables that will determine the capacity of the sewerage system to cater for any increased development:-

- The actual peak loading compared to the design capacity of the plant; and
- The performance of the dune disposal area to meet peak loadings as determined by on-going monitoring. The disposal area could become a limiting factor as there is no other area immediately available for disposal.

Where capacity to cater for additional development is identified, the ability to provide an adequate water supply may also become a limiting factor for which a contingency should be made.

3.1 PHASE ONE DEVELOPMENTS

During the first phase of the sewage treatment plant's commissioning, actual peak loadings, as opposed to design peak loadings, will be assessed. This assessment will consider the inflow volumes at the sewage treatment plant and any increases in water consumption compared to the standard water consumption used to design the sewage treatment plant.

During this phase, ongoing monitoring of Korogora Creek will be undertaken to confirm the performance of the dune disposal area.

It is anticipated that this phase will take not less than 12 months, depending on connection rates to the sewerage system, rainfall and its interrelationship with seasonal peak visitation and the performance of the dune disposal area.

3.1.1 Development Controls:

- a) During Phase One, any *standard development consents* issued by Council shall be restricted to single new *dwellings* per existing allotments, extensions to existing *dwellings* and *shops*. Other developments will be considered provided it can be demonstrated that no net increase in demand for sewerage and water services would occur.
- b) During Phase One, consents for any developments that will generate additional loading on Council's sewerage and water supply systems shall be by means of a "*deferred commencement consent*", pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 to which the following condition shall apply:-
 - *This consent is a "deferred commencement" consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act. This consent shall not commence until the following matters have been satisfied:-*

- i) *Kempsey Shire Council has provided written advice that Council's reticulated sewerage and water supply systems have the capacity to cater for the development, and*
 - ii) *A Development Servicing Plan has been approved pursuant to Section 64 of the Local Government Act 1993 in respect to sewerage infrastructure.*
- c) Such consents shall lapse two (2) years from the date of consent, extendable by a maximum of one (1) year pursuant to Section 95A of the Environmental Planning and Assessment Act, 1979.

3.2 PHASE TWO DEVELOPMENTS

Once Council is satisfied that it has sufficient data to confirm that additional capacity exists in its sewerage and water systems, the second phase of the plan will commence.

It is intended to constantly review the capacity of Council's water and sewerage systems having regard to the ongoing collection of data related to water usage and the performance of the dune disposal area, changing technologies and environmental performance standards.

3.2.1 Development Controls:

- a) Having determined any excess servicing capacity, an assumed density of 11.2 dwellings per hectare will be used to determine the total number of *equivalent tenements (ETs)* that can be serviced and whether there is likely to be any capability to facilitate expansion of the village. This estimated density is based on existing development densities realised prior to any previous restrictions, experience of take up rates elsewhere in the Shire and the desire to maintain low residential densities in the village.
- b) Council will keep a register of available ET's which shall be based on valid approvals (whether or not commenced)
- c) Once the total number of ET's that can be serviced has been reached, no further Phase Two developments will be approved until such time as Council is satisfied that additional capacity exists.
- d) Having regard to the need to ensure the development pattern remains compact; to minimise serving costs; minimise the need for additional clearing; maintain the existing character of the village and to ensure that any future expansion of the village will occur in an orderly and

economic manner, Phase Two developments are intended to be restricted to the area north of Korogora Creek.

- e) Phase Two development will be restricted to new *dwellings* on existing allotments, extensions to existing *dwellings, shops, commercial premises, motels, multiple dwellings* (such as cluster housing, dual occupancy and residential flat buildings), *tourist facilities* and *infill subdivisions*. Other developments will be considered provided it can be demonstrated that no nett increase in demand for sewerage and water services would occur or that effluent can be disposed of on site in accordance with the requirements of “Australian Standard 1547 – Domestic Wastewater Management.”
- f) In respect to development south of Korogora Creek, Phase One restrictions will continue.
- g) Council shall not consent to any development unless it is satisfied that its sewerage and water supply systems are adequate to service the development.
- h) Consents shall lapse two (2) years from the date of consent, extendable by a maximum of one (1) year.
- i) In respect to applications to subdivide land into vacant Torrens Title allotments, the minimum allotment size shall be 700m².
- j) Council shall not consent to applications to subdivide land or to erect multiple dwellings that rely on access from minor access laneways unless the means of access is adequate or suitable arrangements are made to upgrade the means of access and the width of the laneway is adequate to service the development.
- k) Where access is via a minor laneway, the setbacks to the laneway shall be sufficient to permit effective manoeuvring and to allow a vehicle to stand in front of the required covered parking area wholly within the land.
- l) Compliance with all development standards contained in Section 4 of this plan and the relevant requirements of DCP 22 – Local Housing Strategy 2001.

3.3 PHASE THREE DEVELOPMENTS

In the event ongoing monitoring and estimates of sewerage and water supply capacity for Phase Two indicate an additional capacity, Council will consider development of the more constrained lands to the south of Korogora Creek.

Council shall not consent to any development (other than those described in Section 3.1) likely to increase effluent loadings, demand for water, stormwater

runoff or traffic south of Korogora Creek until such time as it has determined that sewerage and water infrastructure is adequate and a detailed Development Control Plan addressing access, servicing, visual impacts, stormwater and other development constraints has been prepared.

4.0 KEY LANDSCAPE ELEMENTS



The following is a list of important natural features which require protection in order to preserve the character of the village:-

- a) **Korogora Creek, including it's aquatic ecosystems and riparian and estuarine vegetation.**
 - By including measures such as low residential densities, coupled with a stormwater strategy.
- b) **Hat Head Beach, including it's natural backdrop.**
 - By requiring all dwellings north of Korogora Creek to be sited and designed so as not to be visible from Hat Head Beach.
- c) **Largely undeveloped upper slopes of O Connors Hill.**
 - By preventing the erection of buildings on the upper slopes of O'Connors Hill (where more than one dwelling per allotment is proposed) and by ensuring that adequate measures are employed to minimise any visual impacts of all buildings.

d) Low residential densities.

- By specifying requirements relating to minimum site and landscaping area, appropriate to the character of the village.

e) Existing large native trees.

- By requiring all existing trees to be identified and where practical, protected.

f) Lack of kerb and guttering.

- By maintaining a stormwater system of grassed swales.

g) Large undeveloped public reserve and camping area.

- By discouraging the erection of immovable structures within the public reserve and camping area.

h) Retention of existing dominant building forms

- By requiring buildings to have regard to the existing character of the village utilising predominantly non-masonry external cladding.

4.1 DEVELOPMENT CONTROLS

In addition to controls contained within DCP 22 – Local Housing Strategy 2001, DCP 37: Hat Head seeks to specify additional controls aimed at protecting the identified key landscape elements. The following development standards shall prevail to the extent of any inconsistency with DCP 22 – Local Housing Strategy 2001.

4.1.1 Residential Densities

The following requirements relating to site and *landscaped area* shall determine the maximum permissible density of residential development which may be achieved, subject to compliance with all other requirements of this plan and DCP 22 – Local Housing Strategy 2001.

Dwelling Size	Site Area (m²)	Landscaped Area (m²)
1 bedroom	300	100
2 bedroom	400	150
3 bedroom	500	200
4 bedroom +	100*	50*

*** Per additional bedroom**

Note: Subdivisions to create vacant Torrens Title allotments require a minimum of 700m² per allotment.

4.1.2 Visual Impacts

- a) All buildings fronting Hutcheson and Bay Streets are to be designed so that no part of any building (including roof structures) will be visible when viewed from any part of Hat Head Beach. Where necessary, a plan prepared by a Registered Surveyor may need to be provided to demonstrate compliance.
- b) All buildings shall be designed so as to comply with the minimum clearing requirements of “Planning for Bushfire Protection 2001.” Council shall not approve of any dwelling that would require the establishment and maintenance of any asset protection zone on any public lands in accordance with the guidelines.
- c) No buildings will be approved on the upper slopes of O’Connors Hill that require clearing to meet bushfire hazard reduction requirements which would significantly reduce the existing tree cover when viewed from the main village area or Hat Head Beach.
- d) No buildings will be approved on the upper slopes of O’Connors Hill unless Council is satisfied that the buildings and associated access driveways have been sited and designed so as to minimise any visual impacts when viewed from the main village area or Hat Head Beach.
- e) No buildings will be approved on the upper slopes of O’Connors Hill unless a visual analysis has been provided which demonstrates that the requirements of this plan will be met.
- f) No buildings will be approved fronting Korogora Creek which are likely to result in unacceptable impacts on existing passive recreational activities within the creek and foreshore areas.

4.1.3 Stormwater Disposal

- a) Developments shall be designed so as to minimise the amount of hardstand areas required to provide driveways, parking and boat storage areas, paved courtyards, etc.
- b) Where possible, access to developments should be via a single access point.
- c) New developments shall be designed so as to ensure runoff will not increase predevelopment flow rates during a 1 in 5 year storm event in accordance with “Australian Rainfall and Run Off – 1987”. All stormwater shall be collected and disposed of wholly on-site.
- d) A description of the intended method of achieving this requirement shall be included with the plans for the required development application.
- e) Where it is proposed to satisfy this requirement by on-site storage in rainwater tanks, the means proposed to maintain the capacity of the system shall be provided, including a contingency for any overflows.
- f) Where an allotment contains existing buildings, provision shall be made to ensure that runoff from existing roof and hardstand areas is directed to the required disposal system.

- g) The design of the required disposal system shall have regard to the fact that Council does not intend providing or requiring the construction of any kerb and guttering.

4.1.4 Tree Retention

- a) The plans submitted for all development applications for buildings or subdivision shall indicate the location of all *trees* located on the land or any trees which overhang the site, including a full description of the size and species of those trees.
- b) Council shall not consent to the removal of any tree required to facilitate a development that comprises part of any *key landscape element*.
- c) Council shall not consent to the removal of any tree that does not comprise a *key landscape element* unless it can be demonstrated that removal is justified having regard to a lack of any feasible design alternatives.
- d) Council shall not consent to the erection of any building within five(5) metres of any *tree*, whether or not a *key landscape element*, unless it is satisfied that erection of the building is unlikely to require removal of any tree in the future.
- e) Where approval is granted for a development which authorises tree removal, compensatory tree planting may be required, either on site or on the adjoining road reserve.

4.1.5 Building Design

- a) Buildings shall have regard to the existing character of the village utilising predominantly non-masonry external cladding.

DEFINITIONS USED IN THIS PLAN

Commercial Premises - means a building or place used as an office or for other business or commercial purposes.

Deferred Commencement Consent - means a development consent issued pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979.

Dwelling – means a room or suite of rooms occupied or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Equivalent Tenement (ET) – means the basic unit of measurement adopted by Council to describe flow from contributing sources as a ratio of the flow expected from a single average residential sewer.

Infill Subdivision – means the subdivision of existing 2(V) Village or Township zoned allotments to the north of Korogora Creek.

Key Landscape Elements – means those elements specified under Section 4.0 of this plan.

Landscaped Area – means that part of the area of the site which is not occupied by any building and includes areas used for purposes such as swimming pools, BBQs and the like but does not include areas used for driveways, parking areas or drying yards.

Medium Density Development – means two (2) or more dwellings on a single existing allotment, whether or not attached to each other.

Motels – means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for overnight accommodation of travelers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travelers or the general public.

Shop – means a building or place used for the purposes of selling, exposing or offering for sale by retail, goods, merchandise or materials.

Standard Development Consent – means a development consent issued pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979 which may be acted upon subject to obtaining a Construction Certificate and compliance with all relevant conditions of consent.

Subdivision – means subdivision to create vacant Torrens Title allotments.

Tree – means a plant with a single trunk and with a trunk diameter of more than 200mm, measured at a point within 600mm of the ground level, and:-

- i Has a height of more than 3 metres; or

- ii Is a heritage listed tree irrespective of size; or
- iii Is rare or endangered plant/tree irrespective of size; or
- iv Is identified as providing habitat for any threatened species.

Tourist Facility – means an establishment providing for holiday accommodation or recreation and may include a boatshed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, houseboat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.