



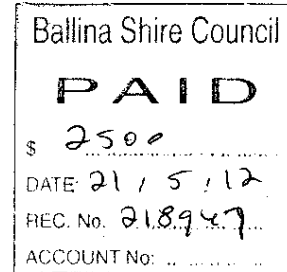
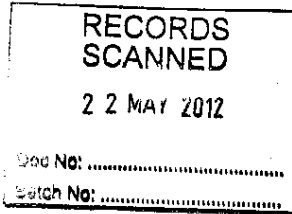
Newton Denny Chapelle

SURVEYORS PLANNERS ENGINEERS

Date: 15 May 2012
Our Ref: 11/308

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Mr Matthew Wood



Dear Sir,

**Re: "Concept" Planning Proposal Request
Former Ferry Boat Motel, 8 Burns Point Ferry Road, West Ballina.**

1. Introduction & Background

Newton Denny Chapelle (NDC) have been engaged by the owners of the former Ferry Boat Motel site at 8 Burns Point Ferry Road, West Ballina to prepare a "Concept" Planning Proposal request to Ballina Shire Council.

This request is made in accordance with Step 1 of Ballina Shire Council's Process Guidelines for the Preparation of Planning Proposals and Local Environmental Plan Amendments. The request is seeking Council's support to commence the rezoning process to enable the development of Lot 1 DP 522558 for medium density residential purposes. To this end, this request proposes the rezoning of the subject site to Zone No. R3 - Medium Density Residential, pursuant to the Draft Ballina Local Environmental Plan 2011.

NDC notes that the adjoining property (Lot 4 DP 537419) has been the subject of lengthy consideration with respect to future development options (via the now discontinued Draft LEP Amendment No. 39 to the Ballina Local Environmental Plan 1987). Through this process, Council has identified parts of the adjoining landholding as warranting protection from an ecological perspective. The extent of the environmental protection required on the adjoining property has been the subject of professional debate over the years, and accordingly, the rezoning of that land has progressed sporadically since the commencement of the rezoning process in 1995. It is understood that Council has provided the adjoining landholder with a further 12 months (ie to end 2012) to resolve the rezoning issues over the property.

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Since purchasing the Ferry Boat Motel property in 2008, our clients have endeavoured to work with the owner of Lot 4 with the view to reaching a mutually agreeable planning outcome. However, due to the uncertainty associated with the potential and viability of development on the adjoining property, our clients are now seeking to progress to develop the subject site in a timely manner and one that is not reliant on the planning issues being resolved on the adjoining property.

NDC also notes that in January 2012, the Department of Planning and Infrastructure issued a Site Compatibility Certificate pursuant to the provisions of State Environmental Planning Policy (Housing for People with Seniors or People with a Disability) 2004 (the SEPP) relating to the development of serviced self-care accommodation on the site. Our clients are now investigating alternate development outcomes for the property, with their preferred option involving medium density residential development.

2. Description of Site and Surrounds

Lot 1 DP 522558 is located at 8 Burns Point Ferry Road, West Ballina. Burns Point Ferry Road currently forms the western edge of the residential development in this locality. **Plan 1** illustrates the site in its local context whilst **Plate 1** provides a photograph of the site as existing.



Plate 1 – Photo of subject site.

The site previously contained the Ferry Boat Motel, which was demolished in 2008. The site is currently vacant and vegetation on the site has been slashed routinely. The property is flat, has a total area of 4,046m² and is rectangular in shape.

The property is low-lying with an existing level of RL 0.75m AHD along the southern property boundary rising to an approximate RL of 1.1m AHD in the central portion of the site (which previously accommodated the motel car parking area). The area adjacent to the northern property boundary is approximately RL 0.9m AHD.

Burns Point Ferry Road is located to the east of the site and a gravel track provides vehicular access to the property from the public road. The recently bypassed Pacific Highway (River Street) is located to the north of the site. Between the northern property boundary and the Pacific Highway (River Street) road formation is a substantial road reserve, which is understood to be owned by Ballina Shire Council.

To the east of the site (across Burns Point Ferry Road) is a residential subdivision comprising a combination of detached dwellings, duplexes and medium density townhouse developments. These dwellings are predominately single storey and of brick and tile construction. To the north of the River Street (Pacific Highway) alignment is the Riverbend Manufactured Home Estate which is marketed to people aged over 55. Immediately to the east of Riverbend Estate is Emmanuel Anglican College.

To the south and west of the site is Lot 4 DP 537419 which is currently vacant, but was historically utilised for sugarcane production. This property has been the subject of extensive planning consideration by Ballina Shire Council via Draft Amendment 39 to the Ballina Local Environmental Plan 1987 (known as "Ballina Waterways"). This process has revealed that the southern parts of the adjoining property contain significant environmental values which warrant protection via the future zoning framework.

3. Environmental and Planning Constraints

The site is subject to a number of environmental and physical constraints which will need to be the subject of further consideration as part of the formal Planning Proposal process. These include the following:

- **Contaminated Land** – The subject land has historically been utilised as a Motel, which is not identified on Schedule 1 of Council's Policy as a potentially contaminating activity. Notwithstanding this, it is proposed that soil testing will be completed by an appropriately qualified person as part of the formal Planning Proposal documentation.

We note that the site was tested for asbestos following the demolition of the motel and has been certified as being clear of asbestos. A copy of this certification is provided at **Attachment 1**.

- **Acid Sulfate Soils** – The subject site is identified in Council mapping as containing Class 2 Acid Sulfate Soils (ASS). Development consent will be required for the carrying out of any works below the natural ground surface on this land. Based on the findings of ASS assessments in other locations close to the subject site, appropriate ASS management techniques will need to be employed as part of future construction on the land.
- **Geotechnical Characteristics** – Geotechnical investigations in the locality identify the presence of soft soils in lands adjacent to the north and west of the site, however lands to the east (that are already developed) are less susceptible. The proposed development concept will require extensive footings given the elevated design (ie. suspended slab) for the dwellings. Foundation design would require detailed geotechnical investigation to determine piling system most suited to the site as the suspended slab will have need to have limited movement/settlement. However, by having a basement parking and suspended slab design, the issue of treating potential settlements due to broad scale filling of the site are significantly reduced. Where necessary, flexible connections for service connections will be required in accordance with geotechnical recommendations identified at Construction Certificate design.
- **Ecological Values** – The site was previously occupied by a motel which was demolished in 2008. The construction of the motel premises and associated vehicular access, car parking and gardens, substantially modified the environment of the site. Since the demolition of the motel, the site has been routinely slashed to manage weed growth and the site currently comprises gravel, cane grass and weeds. Accordingly, it is unlikely that any significant native vegetation exists on the site or that it comprises important habitat for native fauna. However, any planning proposal will need to have regard to potential “edge effects”.
- **Flooding** – The subject land is mapped as being flood prone. The “Base Case Flood Model” prepared as part of the Ballina Flood Study Update (BMT WBM 2008) included the subject site as “future development or infrastructure works” and as such the cumulative impact of developing (including potential placement of fill) the site has been factored into Council’s Modelling for the Flood Plain. It is also noted that flood modelling undertaken as part of the discontinued rezoning process for the adjoining “Ballina Waterways” site included modelling of the impact of filling of the subject site. This work concluded that the subject land can be filled without adversely impacting adjoining lots or flood paths.

The site has existing ground levels ranging from RL 0.75m AHD to RL 1.1m AHD. At the time of writing this Report, both Council's existing and draft Development Control Plans require the site to be filled to a level of 2.7m AHD, with a floor level of 3.2m AHD. The design concept presented within this submission achieves flood immunity via an alternate levee protection approach in accordance with Floodplain Management Manual design requirements. Further discussion is provided regarding this matter in **Section 6**.

- **Bushfire Prone Land** - Both the subject site and surrounding lands are not identified as being Bush Fire Prone Land, pursuant to mapping held by Ballina Shire Council.
- **Acoustic Environment** - The subject site is located in relatively close proximity to the River Street (former Pacific Highway) alignment. Traffic projections for this road are such that any application for the future development of the subject site will need to be accompanied by an acoustic assessment undertaken by an appropriately qualified professional. It is plausible that design construction solutions may be required to manage this issue.
- **Infrastructure Services** - The land is able to be connected to all essential infrastructure services including water, sewer, electricity and telecommunications.

4. Current Planning Status

The site has been identified in a wide range of strategic planning documents as being a candidate for future urban development [subject to appropriate environmental assessment via the rezoning and development application processes]. These include:

- **Ballina Local Environmental Plan 1987** - The site is currently zoned 1(d) Rural [Urban Investigation] Zone pursuant to the BLEP 1987. The primary planning objectives for this zone aim to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes. The zone also seeks to ensure that appropriate urban structure planning is undertaken and that adequate infrastructure is available to service development.
- **Ballina Urban Land Release Strategy 2000** - The subject land is located within the "West Ballina Planning Precinct" and is identified for rezoning in the immediate term.

- **Far North Coast Regional Strategy 2006** – The site is located within the area identified as a "Proposed Future Urban Release Area" on Sheet 3 of the Town and Village Growth Area map. The site is located free of areas nominated on the map as "indicatively containing high level constraints".
- **Draft Ballina Local Environmental Plan 2011 (As Adopted)** – The site is located on the Strategic Urban Growth Area Map for the West Ballina Area.
- **Draft Ballina Shire Growth Management Strategy 2012** – The property is mapped as a Strategic Urban Growth Area pursuant to the Draft Growth Management Strategy currently on exhibition.

In accordance with this planning status, our clients are now seeking to advance the rezoning and development of the site for residential purposes.

It is noted that to date, Council has required the rezoning of the site to be considered concurrently with the adjoining property. The rezoning process over the adjoining land has been impacted by a range of ecological issues, which have taken a significant period to resolve. In this regard, it is noted that the rezoning process was initially commenced in 1995. At the time of writing this report, Council's Environment and Sustainability Committee has recommended that Council provide the adjoining landowner with a further 12 months to progress the rezoning of the northern part of the land. Given the lengthy timeframes involved with that process, the owners of Lot 1 DP 522558 request that they be able to proceed with a rezoning over their land in isolation of the neighbouring property.

5. Pre-lodgement Discussions

A pre-lodgement meeting was held with Mr Steve Barnier and Mr Matthew Wood of Council's Strategic and Community Services Group on 8 March 2012 concerning the possible rezoning of the site for medium density residential purposes. Council officers advised that the first step of the rezoning process involved the lodgement of a "Concept" Planning Proposal Request outlining in broad terms the background and merits of the proposal. In particular, it was requested that the documentation include information concerning the following matters:

- **Adjoining Landholding** – Mr Barnier advised that Council's preference to date had been for the rezoning of the subject site to be considered on an integrated basis with the adjoining property (Lot 4 DP 522558). Council will be aware that the previous rezoning process over this property was discontinued by the Department of Planning and Infrastructure in 2010.

Since purchasing the property in 2008 our clients have endeavoured to work with the owner of the adjoining property to facilitate integrated development outcomes. This has included numerous discussions and email correspondence between the various landholders and their planning and legal representatives with formal meetings having been held on at least 12 occasions. Of particular note, detailed negotiations have occurred in the past relating to options to achieving integrated road access (including potential "boundary adjustment"). A chronology of these discussions prepared by our clients is provided at **Attachment 2**.

However, given Council's position with respect to the quantum of the adjoining property to be allocated an environmental protection zoning, the viability of the development of that property is uncertain. It is understood that the adjoining landholder continues to explore a range of options to address this issue including the implementation of a "bio banking" arrangement.

The adjoining property has been under active consideration for rezoning since the mid 1990's. Given the lengthy period of time which has already transpired, and the likely future timeframes to further progress the planning issues on the adjoining property, our clients are now seeking to progress the rezoning of their property in advance of the adjoining land. We note that our clients have advised the owner of the adjoining property of our client's intentions to lodge this planning proposal request and that no objections were raised. NDC also raises that the adjoining property has lawful frontage to a number of public roads and has a range of options with respect to site access and servicing.

- **Development Concept** – Council officers suggested that the planning proposal should be accompanied by development concept plans providing indicative illustrations with respect to the proposed development form. Such plans are contained in **Attachment 1** and discussed in more detail in Section 6 of this report.
- **Former Pacific Highway (River Street) Road Reserve** – Council noted that the former Pacific Highway (River Street) Road Reserve adjoining the site is proposed to be zoned R2 Medium Density Residential pursuant to the draft BLEP 2011 and suggested that advice be sought from the relevant roads authority with respect to the management intentions for this land. The Roads and Maritime Services was contacted concerning this matter. RMS officers advised that the road corridor is to be "handed back" to Ballina Shire Council following the full opening of the Pacific Highway Ballina Bypass and that Council is the appropriate authority to approach.

A letter was subsequently sent to Council's Commercial Services Section on 2 April 2012 concerning this matter, however at the date of writing this report, no response has been received. NDC understands that there is an existing sewer line located within the road reserve immediately adjacent to the northern property boundary of our client's site. Accordingly, there is limited opportunity to utilise such land for expansion of the development footprint, without incurring significant costs for the relocation of this infrastructure.

Notwithstanding the above, the **attached** concept landscape plans, illustrate that opportunities exist to provide relatively low maintenance landscape treatments within the road reserve (including avenue tree plantings) which would enhance the streetscape in this area and improve the "entrance" to Ballina in this locality.

6. Indicative Development Plans

To assist Council with its consideration of this matter, Archimages Architects and Design Team Ink Landscape Architects have prepared conceptual development plans for the site. These plans (provided at **Attachment 3**) illustrate that an attractive built form can be accommodated on the site, which will provide a pleasant living environment for future residents.

The following comments are made with respect to the proposed development plans:

- **General Design** – The project proposes the development of 25 x 2 bedroom units over 3 levels. The basement level will contain car parking, with each unit provided with internal access to their nominated parking via individual staircases. The podium level of each unit will contain kitchen and living areas opening onto private courtyards, which in turn will be linked via communal landscaped areas. The upper level of each unit will contain 2 full size bedrooms together with bathroom facilities.
- **Landscaping** – The landscape plans illustrate that a range of landscape treatments are available to enhance the streetscape as well as the amenity and function of both the private courtyards and the communal landscape areas. It is noted that the landscape plans:
 - Incorporate terraced landscape frontages to balance the height of the built form with the surrounding suburban neighbourhood character;

- Provide deeper soil zones at podium level through raised planters and recessed basement roof spaces to allow for incorporation of larger plant species; and
 - Providing strategic fencing and plantings to provide privacy to individual courtyards, whilst enabling individual residents to personalise their courtyard areas.
- **River Street Enhancement** – Given the substantial Pacific Highway (River Street) road reserve adjacent to the subject site, opportunities exist for landscape treatments within the road reserve, which would provide for improvements to the streetscape in this locality. Opportunities may also exist for "entrance statements" or the like, subject to Council's agreement.
 - **Flooding** – The site is low lying with existing ground levels ranging from RL 0.75m AHD to RL 1.1m AHD. At the time of writing this Report, both Council's existing and draft Development Control Plans require the site to be filled to a level of 2.7m AHD, with a floor level of 3.2m AHD.

The design concept presented within this submission achieves flood immunity to the development by way of the construction of a "podium" style development. In this regard, the upper podium level constructed at a nominal height of 3.0m (floor level 3.2m), with non-habitable car parking areas constructed below at a level of 0.0m. The car parking will be protected from future flooding via levee design techniques, including a RL 2.8m high "threshold" within the ramp to the lower level car park. The levee design technique shall meet with the requirements of the Floodplain Management Manual to which preparation of Engineering Response Plans would address issues of overtopping in extreme events.

It is noted that options exist to provide a conventional filling arrangement of the entire building envelope with the construction of car parking and circulation areas at the finished (filled) ground level. However, the amenity of future residents (and the opportunities for open space) is substantially improved once garages and associated circulation areas are relocated to a separate level. Furthermore, the geotechnical characteristics of the site are such that significant settlement periods are likely to be required for a conventional fill arrangement.

- **Development Density** – The Ballina Shire Combined Development Control Plan 2006 nominates a preferred residential density in the West Ballina Area of 1

dwelling/200m² (which equates to 20 units). The development concept illustrated within the **attached** plans, provide for 25 units at a density of 1 dwelling / 160m². It is submitted that the rezoning/DCP amendment process enables Council to consider a site specific density provision.

The reason for this proposal primarily relates to achieving a viable development outcome on the site. It is further noted, however, that given the uncertainty with respect to the future development of the adjoining property it is prudent for Council to maximise the development potential upon our client's land, to assist in achieving the Far North Coast Regional Strategy dwelling targets for the Shire. The design plans for the project illustrate that this can be achieved without compromising the amenity of the locality, including existing residential development to the east of Burns Point Ferry Road.

7. Conclusion

Our clients are seeking Ballina Shire Council's support to commence the rezoning process to enable the development of the former Ferry Boat Motel site at Lot 1 DP 522558 for medium density residential purposes. This request is made in accordance with "Step 1" of Ballina Shire Council's Process Guidelines for the preparation of Planning Proposals and Local Environmental Plan Amendments.

It is acknowledged that more detailed planning, environmental and engineering assessments will be required in order to progress the project through the rezoning and development application processes. However, it is submitted that sufficient information is available at this time to enable Council to progress to "Step 2" of the process - that is the preparation of a formal request for Council to prepare a Planning Proposal.

In addition to Council's support for commencing the rezoning process, our clients are seeking Council direction with respect to two particular aspects of their preferred development proposal, namely the proposed alternate solution to achieve flood immunity and the proposed unit yield on the site. These issues both impact on the available development options and project viability, and accordingly, it is important that clear direction is provided at this stage.

We trust that the above is satisfactory to your requirements and look forward to Council's favourable consideration of this request. Should Council have any queries regarding the above, please do not hesitate to contact Ms Karina Vikstrom of this office on [02] 6622 1011.

Please find **enclosed** a cheque in accordance with Council's prescribed fees for this matter.



DAMIAN CHAPELLE

Town Planner, BTP, CPP.



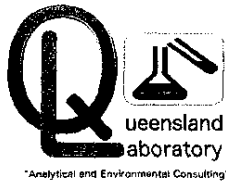
KARINA VIKSTROM

Town Planner, BTP.

ATTACHMENT 1

Site Clearance Investigation - Asbestos

Queensland Laboratory



ABN: 83 117 421 324

1A/22 Ereton Dr, Arundel QLD 4214
Enquiries: 1300 138 366
Ph: (07) 5537 2536
Fax: (07) 5537 2535
admin@queenslandlab.com
www.queenslandlab.com.au

SITE CLEARANCE INVESTIGATION - ASBESTOS
Laboratory Report

Job #: CLQ070062

Date: 06/06/2008

Client: Southern Cross Demolition
Client Contact: Rod McCracken & Jaden McCracken (07) 5598 7424
Site Location: 8 Burns Point Ferry Rd, West Ballina, NSW

1. Visual Clearance Inspection – 06/06/08 – Jay Spencer


A visual inspection was conducted by Queensland Laboratory on the 6th June 2008 at Burns Point Ferry Road, West Ballina, NSW. Demolition and removal of a fire-damaged hotel containing asbestos material was conducted by Southern Cross Demolition from the 16th May 2008.

Once demolition and removal was complete a visual inspection was conducted by Queensland Laboratory and revealed no visible fragmented asbestos on the topsoil of the site. Based on air monitoring results [Ref: AMQ070089.1 and AMQ070089.2] during the removal on 16th and 17th May 2008 respectively, and results of the visual inspection, the works were conducted in accordance with *NOHSC:2018(2005) Code of Practise for the Safe Removal of Asbestos*, and all appropriate control and removal methods were implemented.

Upon inspection of the site, all major structures were removed from the property including building footings.

Based on the results of the visual inspection, clearance is hereby passed for works to be conducted on this property without the use of Respiratory Protective Equipment (RPE).

Reported By:


Sally Evans (BEnvMgt)
Health Safety & Environment Manger

QUEENSLAND LABORATORY
Occupational Hygiene and Environmental Consulting

1 of 1

ATTACHMENT 2

**Client Correspondence
Outlining Rezoning Conversations/Negotiations**

**DETAILS OF CONVERSATIONS/NEGOTIATIONS WITH OWNERS/REPRESENTATIVES
OF BALLINA WATERWAYS REGARDING REZONING OF LOT 1 DP 522558
(THE FORMER FERRY BOAT MOTEL SITE)
PREPARED BY MR CHRIS ELLIOTT & MR DAVID WESTAWAY**

- 28 April 2008 - Purchased Lot 1 DP 522558 site (former Ferry Boat Motel site).
- 9 May 2008 - LandPartners Limited on behalf of the owners of Lot 1 DP 522558 requested a rezoning of the former Ferry Boat Motel site to an urban use.
- May 2008 - Chris Elliott had discussions with Ballina Shire Council staff who indicated that the Council placed a high priority on the Kalinga Street extension for access through Lot 1 DP 5226558 to the adjoining site owned by Ballina Waterways.
- 3/4 June 2008 - Chris Elliott had various meetings with Matthew Freeburn regarding Ballina Waterways application for rezoning of Lot 4 DP 537419 and implications for site access through Lot 1 DP 522558 to permit an extension of Kalinga Street. Initial discussions held regarding a combined rezoning proposal.
- 5 June 2008 - Chris Elliott attended a meeting at Ballina Shire Council together with Matthew Freeburn, representatives of LandPartners Limited and representatives of the Council, including Steve Barnier and David Kitson. The meeting largely discussed issues associated with the Ballina Waterways rezoning application although specifically with regard to Lot 1 DP 522558 Council representatives advised that they were seeking the landowners of Lot 1 DP 522558 and Lot 4 DP 537419 to negotiate an arrangement that would facilitate the extension of Kalinga Street.

In subsequent discussions between Matthew Freeburn and Chris Elliott following the 5 June 2008 meeting, Chris understood from Matthew that Ballina Waterways may not be proceeding with a rezoning application if Council was only prepared to accept an area of 4.76 hectares for rezoning.

- August/October 2008 - Chris Elliott had further discussions separately with Matthew Freeburn and Chris Condon (The Condon Group representing Ballina Waterways) regarding a joint rezoning proposal. LandPartners letter to Ballina Shire Council dated 30 October 2008 advised that Ballina Waterways "...will be negotiating access over land owned by others. We feel confident proposed access can be provided to the site." Chris Elliott advised Matthew Freeburn that the owners of Lot 1 DP 522558 were happy to discuss/negotiate access over the land owned by them.
- 23 October 2008 - Ballina Shire Council meeting minutes note that the Strategic Services Group had received a variety of requests for amendment to the Ballina LEP that relate to a range of issues and that requests received since May 2008 were being held for integration into the comprehensive review. The request for rezoning of Lot 1 DP 522558 (the former Ferry Boat Motel site) was listed as one of these requests.
- November 2008 - Further discussions between Chris Elliott, and separately Matthew Freeburn, Chris Condon (The Condon Group) and Steve Connolly (SJ Connolly Pty Ltd also representing Ballina Waterways) regarding the proposed rezoning application and potential for a joint rezoning proposal being lodged with Ballina Shire Council that would incorporate access to Lot 4 DP 537419 via Lot 1 DP 5226558. Again Chris Elliott advised the owners and representatives of the Ballina Waterways site that the owners of Lot 1 DP 522558 were prepared to discuss/negotiate access via Lot 1 DP 522558 to the Ballina Waterways land. It was left that the owners/representatives of Ballina Waterways would come back to the owners of Lot 1 DP 522558 with a firmer proposal once they had finalised their concept plan for the proposed rezoning.

- 28 December 2008 - Letter from Steve Barnier (Ballina Shire Council) advised the owners of Lot 1 DP 522558 that the elected Council had resolved at their meeting on 18 December 2008 to "Advise the various land owners that Council is supportive of rezoning the 4.76 ha area of the Ballina Waterways site adjacent to the Pacific Highway and the immediately adjoining lands for urban purposes as part of the comprehensive Draft Local Environment Plan, provided that: a) An integrated rezoning strategy is provided in conjunction with the Ferry Boat motel site....", ".....d) The owners of the Ballina Waterways and former Ferry Boat Motel site provide commitments towards access being provided to and across the site for extension of Kalinga Street across the site to give alternative access to Emigrant Lane."
- 10 July 2009 - Discussions between Chris Elliott and Chris Condon regarding a proposed revised conceptual layout for the rezoning of the Ballina Waterways land that required the extension of Kalinga Street through Lot 1 DP 522558 and the implications of this for potential boundary adjustments to compensate the owners of Lot 1 DP522558. Chris Elliott understood, as a result of these discussions, that the revised conceptual layout would incorporate a larger urban footprint than the 4.76 ha that the Council had resolved to conditionally support at their 18 December 2008 meeting.
- 1 September 2009 - LandPartners (on behalf of Ballina Waterways and working in conjunction with SJ Connelly Pty Ltd) forwarded to the owners of Lot 1 DP 522558 a very preliminary conceptual plan for the proposed rezoning of the Ballina Waterways Pty Ltd and Emigrant Creek Properties Pty Ltd site. LandPartners stated in part that "The preliminary concept proposal looks to develop the northern part of the site as an Arts and Technology Village, keep the bulk of the site reserved in perpetuity for conservation purposes and provide sites within the land for University, study and research purposes. We very much need your assistance to refine the plan and want to work with you to ensure that your land is appropriately integrated into a suitable long term use plan for the area."
- September 2009 - meetings held in Ballina between Chris Elliott and separately, representatives of LandPartners, Chris Condon and Steve Connolly regarding the latest Ballina Waterways preliminary concept plan and the implications for the owners of Lot 1 DP 522558. The proposed revised conceptual layout incorporated a larger urban footprint than the 4.76 ha that the Council had resolved to conditionally support at their 18 December 2008 meeting. In these meetings and in subsequent telephone discussions with Matthew Freeburn, Chris Elliott advised that the owners of Lot 1 DP 522558 were prepared to work with Ballina Waterways with regard to their proposed rezoning proposal and also to negotiate access to the Ballina Waterways site via the Lot 1 DP 522558 site.
- 8 December 2009 - Matthew Freeburn forwarded a draft proposal for a boundary adjustment to Lot 1 DP 522558 and Lot 4 DP 537419 that would see an area of the land that would facilitate the extension of Kalinga Street become part of Lot 4 DP 537419. In exchange an area of land along the old Pacific Highway currently belonging to Lot 4 DP 537419 would transfer to Lot 1 DP 522558. Subsequent discussions held between Chris Elliott separately with Matthew Freeburn, Chris Condon and Steve Connolly advised that the owners of Lot 1 DP 522558 agreed in principle with a proposed boundary adjustment however the nature of the parcel of land that would be the subject of the boundary adjustment and the timing of such transfer was still to be negotiated. The owners of Lot 1 DP 522558 did not wish to proceed with any boundary adjustment until such time as Council approval had been obtained to the proposed Ballina Waterways rezoning proposal given the nature of the environmental issues attached to the Ballina Waterways land.
- 21 January 2010 - Chris Elliott and David Westaway met with their legal representative, to discuss current developments with respect to the proposed combined rezoning application and legal requirements associated with any proposed boundary adjustment. Chris Elliott and David Westaway subsequently had a meeting with Steve Connolly in relation to the current status of the Ballina Waterways rezoning proposal and to further progress negotiations concerning the amount of land to be the subject of the boundary adjustment and the proposed timing of any adjustment. Steve Connolly advised that he would update Matthew Freeburn with the status of our discussions/negotiations.

- May 2010 - Chris Elliott had further meetings and discussions in Ballina with Chris Condon and Steve Connolly regarding the current status of the Ballina Waterways proposed rezoning proposals. Chris Elliott again indicated the willingness of the owners of Lot 1 DP 522558 to be involved in a combined rezoning proposal and also to continue negotiations with regard to potential boundary adjustments to facilitate the extension of Kalinga Street. Subsequent discussions were held with Matthew Freeburn reiterating this point. Discussions also held with Steve Barnier, Ballina Shire Council advising of progress in relation to Chris Elliott's discussions with the owners/representatives of the Ballina Waterways site and fact that the owners of Lot 1 DP 522558 had agreed in principle to a boundary adjustment but that negotiations regarding the details were ongoing.

- 13 June 2010 - letter received from Ballina Shire Council which stated in part "I refer to the longstanding rezoning proposal for the area bound by the Pacific Highway, Burns Point Ferry Road, the Richmond River and Emigrant Creek in West Ballina, which is dominated by the Ballina Waterways site but also including your property. I wish to advise that due to legislative changes associated with the NSW Government's planning reforms and the lack of progress in finalizing this matter, this rezoning request has formally lapsed."

Council went on to advise that "The proposed rezoning was reactivated by Land Partners Pty Ltd on behalf of the owners of Ballina Waterways site in 2005 and actively managed by this consultancy until shortly after Council's 2008 resolution. Council was however advised in middle of 2009 that SJ Connelly Pty Ltd was appointed as the new principal planning consultant. I further advise that SJ Connelly Pty Ltd made several presentations to Council and Staff late last year about reviewing the development options for the site, which may include an enlargement of the urban footprint and the establishment of an environmental research centre. As indicated above a 'planning proposal' will need to be formally submitted to Council and a 'gateway approval' may be obtained from the Department of Planning for the rezoning process to recommence. Council will notify you if, and when, such a planning proposal is submitted."

- 16 September 2010 - Letter from Chris Elliott to the Ballina Shire Council in response to the Draft Ballina Local Environment Plan 2010 - Public Exhibition seeking a rezoning of Lot 1 DP 522558. This letter stated in part that "As you would be aware we have been working co-operatively for some time with the owners of the adjoining sites seeking a rezoning of the aggregated site....It has become clear to the owners of the Ferry Boat motel site that it will not be possible in the short to medium term to achieve an agreed outcome for the combined sites.". Receipt of this letter was acknowledged by Steve Barnier, Ballina Shire Council in his letter to Chris Elliott dated 21 September 2010. Matthew Freeburn was also advised of the contents of Chris Elliott's letter dated 16 September 2010 and did not raise any objections with Chris to it being lodged with the Council. As at this date it was the owners of Lot 1 DP 522558 understanding that the owners of the Ballina Waterways site were seeking a rezoning under the NSW State Government Part 3A planning guidelines and that discussions with the University for the proposed use of the residual Ballina Waterways land not zoned as urban had not progressed favourably.
- 12 January 2011 - Letter from Ballina Council's, Mr Matthew Wood, advising that "with respect to the reporting of the Draft LEP, please note that the presentation of the submissions review and exhibition outcomes to the Council will now be postponed pending completion of further analysis and investigations, and additional liaison with the NSW Department of Planning. It is not expected that the Draft LEP will be reported to Council before March 2011."
- April/May 2011 - Chris Elliott held further discussions separately with Matthew Freeburn and Steve Connolly in relation to the status of the Ballina Waterways proposed rezoning and Part 3A application as well as the status of the proposed rezoning application for Lot 1 DP 522558.

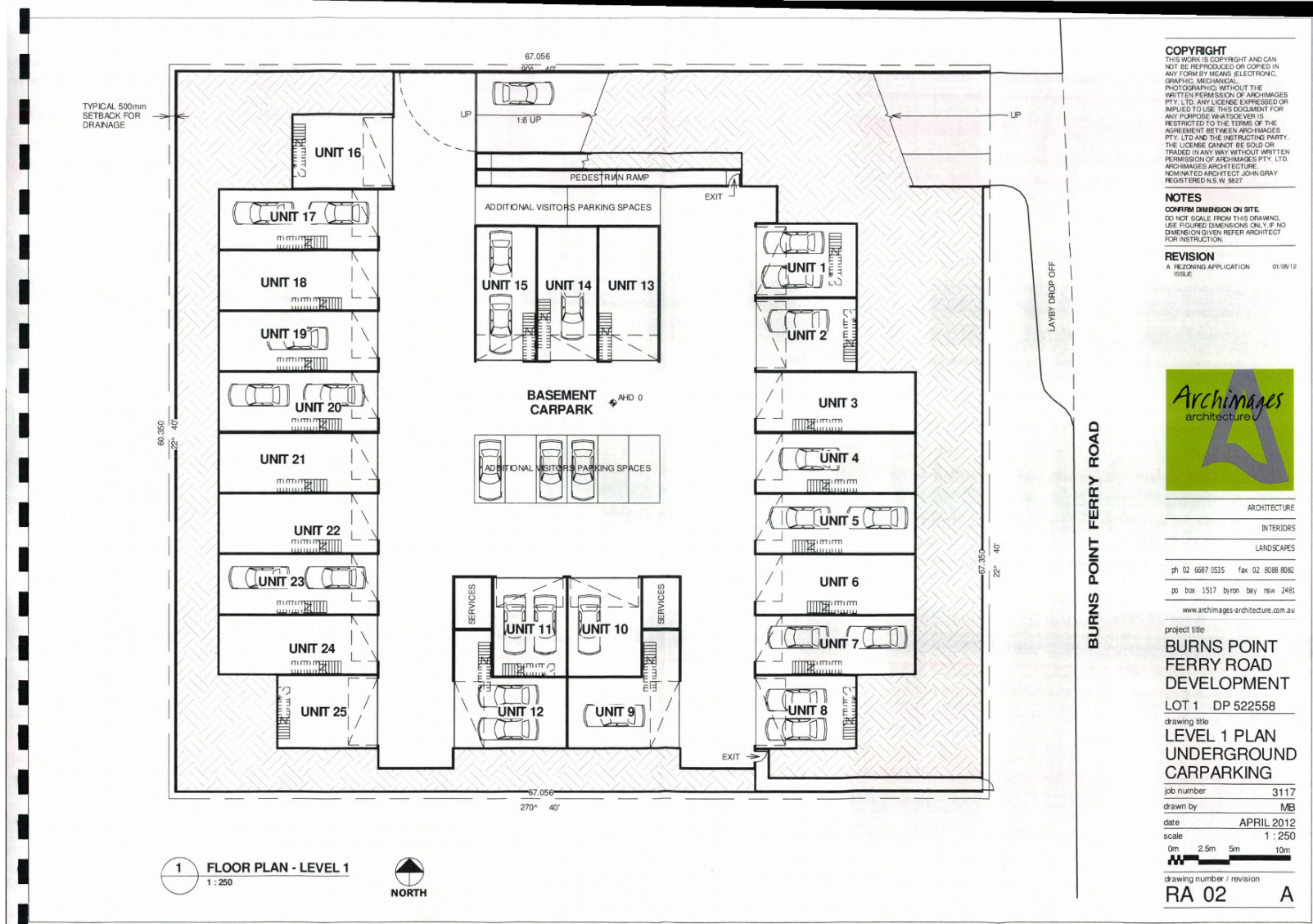
- 20 May 2011 - Meeting between Chris Elliott and David Westaway with Matthew Freeburn in his Penrith offices. Matthew advised that the Ballina Waterways Part 3A proposal had been unsuccessful. At this meeting it was Chris and David's understanding that, as a result of the endorsement of a series of recommendations by the Council's Environmental and Sustainability Committee in relation to the Draft Ballina LEP 2010 at its meetings on 17 and 19 May 2011, specifically in relation to the proposed zoning to be applied to the Ballina Waterways land, that Ballina Waterways would not be proceeding in the near future with any further proposal for rezoning of this land as it was considered to be not economically viable. Accordingly Matthew advised both Chris and David that there was no further need for discussions regarding any boundary adjustments.
- 14 December 2011 - Newton Denny Chapelle on behalf of the owners of Lot 1 DP 522588 made an application for a Site Compatibility Certificate for Lot 1 DP 522558 under clause 25(1) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Housing). Prior to lodging this application Chris Elliott spoke to Matthew Freeburn to advise him of the owners' intention to seek a site compatibility certificate. Matthew Freeburn did not raise any objections to lodging this application to Chris and again, Chris understood that Ballina Waterways would not be proceeding at this stage with any further rezoning proposal given that to do so was not considered to be economically viable.
- 8 March 2012 – Chris Elliott, David Westaway, John Gray (Architect) and planning representatives from Newton Denny Chapelle met with Steve Barnier and Matthew Wood from Council to discuss options relating to rezoning of Lot 1 DP 522558 independent of the adjoining property. Council officers enquired as to progress of discussions with adjoining property and suggested information be incorporated within the rezoning request outlining the history of consultation between the parties.
- 10 April 2012 - Chris Elliott spoke with Matthew Freeburn and advised him of the following:
 - receipt of a favourable determination in relation to our application for a Site Compatibility Certificate;
 - that the owners of Lot 1 DP 522558 were proposing to seek a rezoning of their land, independently of Ballina Waterways; and
 - outcome of discussions with members of staff of the Ballina Shire Council on 8 March 2012 in relation to the proposal to seek a rezoning of their land and fact that Steve Barnier again enquired as to the nature of the working relationship with the owners of the Ballina Waterways land.

Matthew Freeburn advised Chris Elliott that he had no issues with the owners of Lot 1 DP 522558 proceeding independently with their proposed rezoning application.

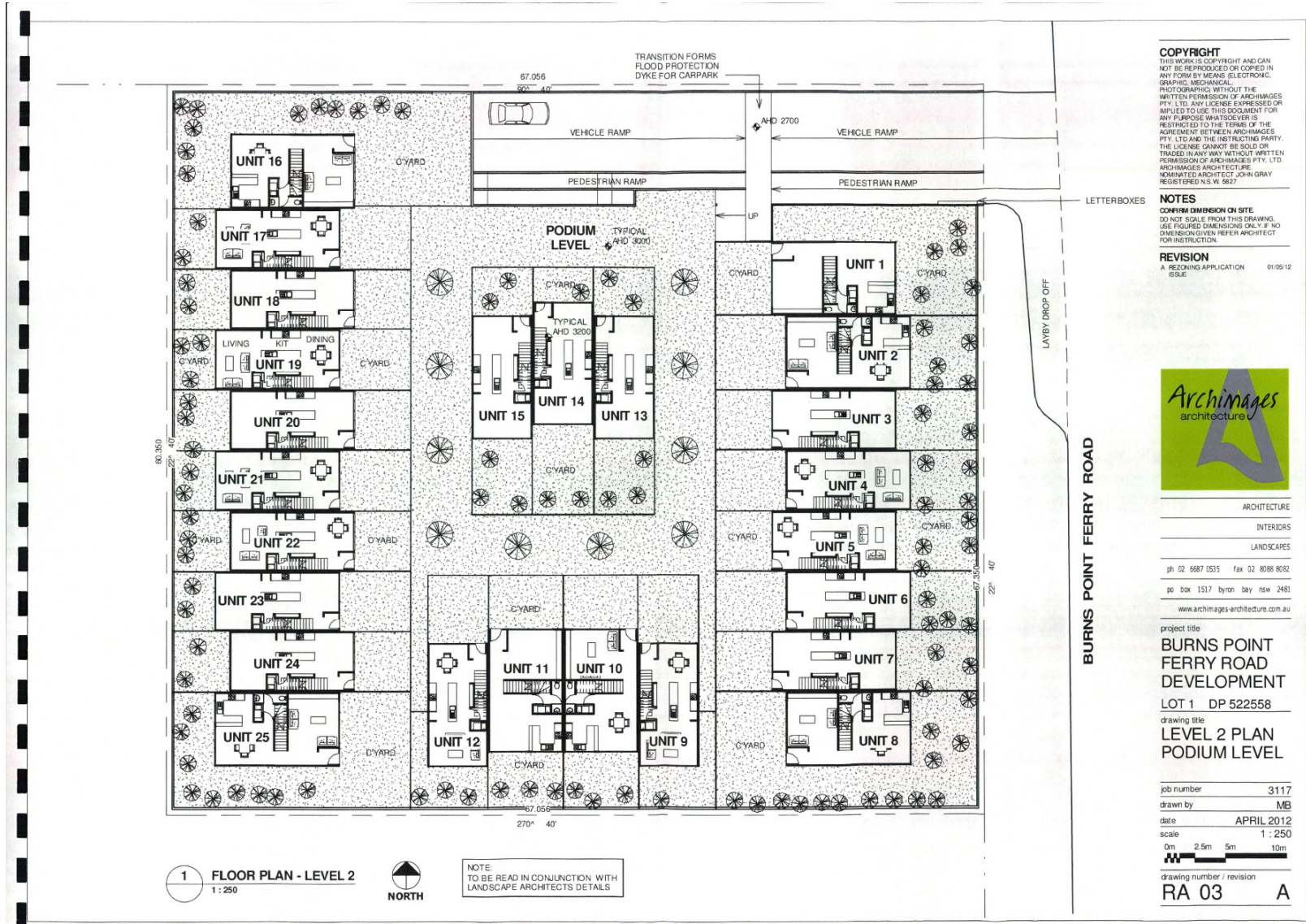
ATTACHMENT 3

Development Concept Plans

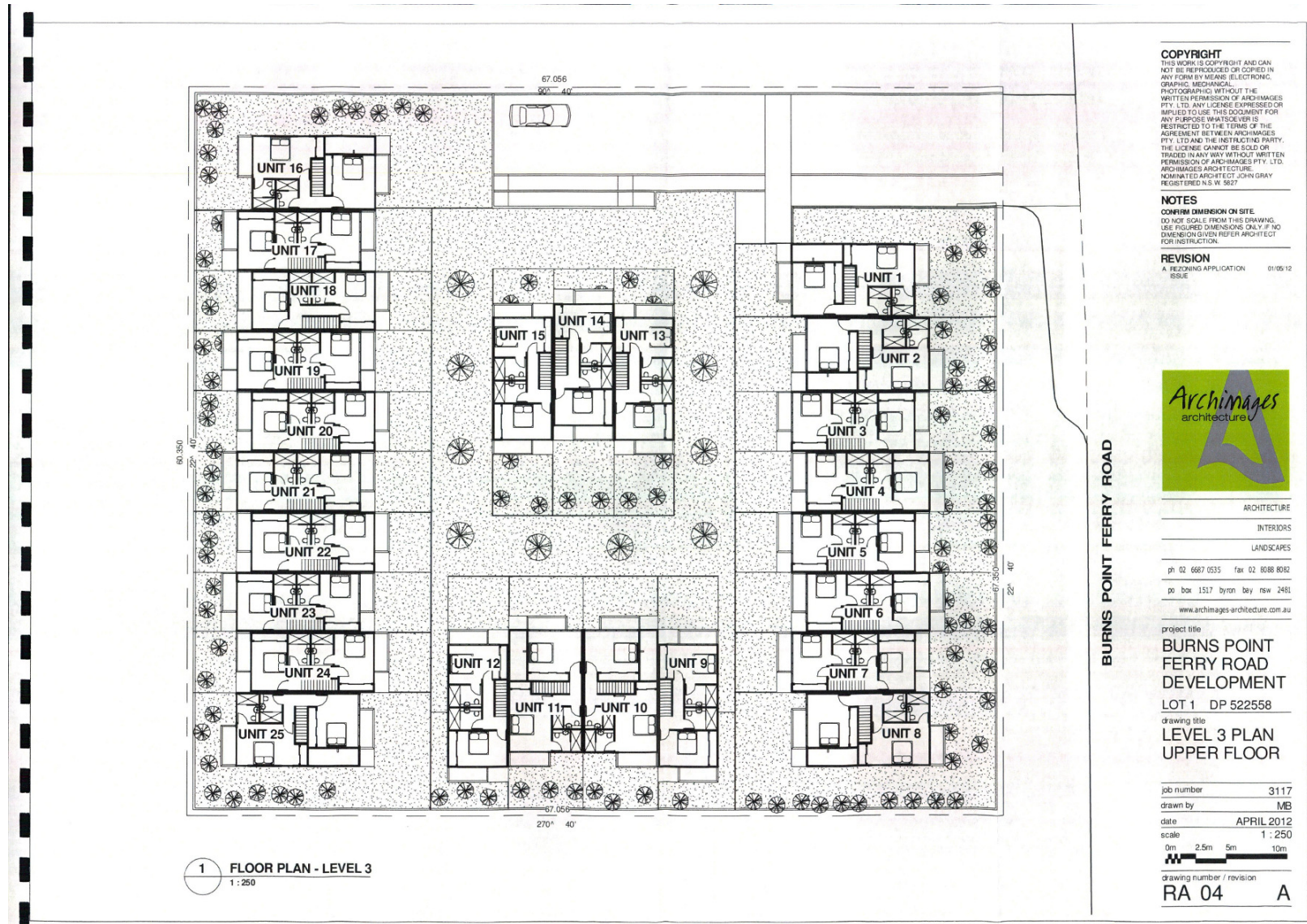
9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



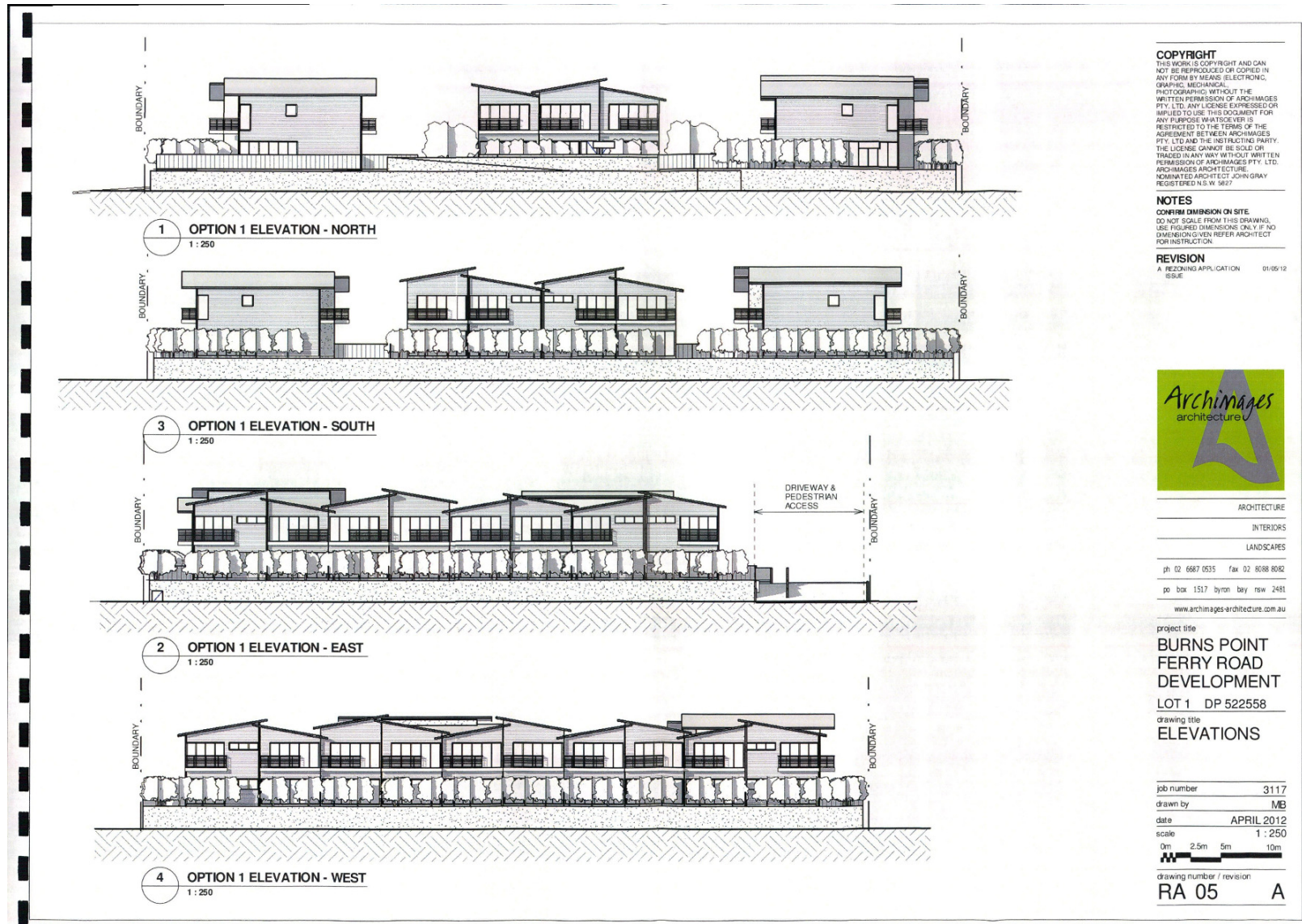
9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



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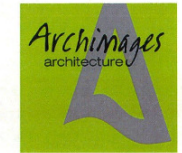
9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



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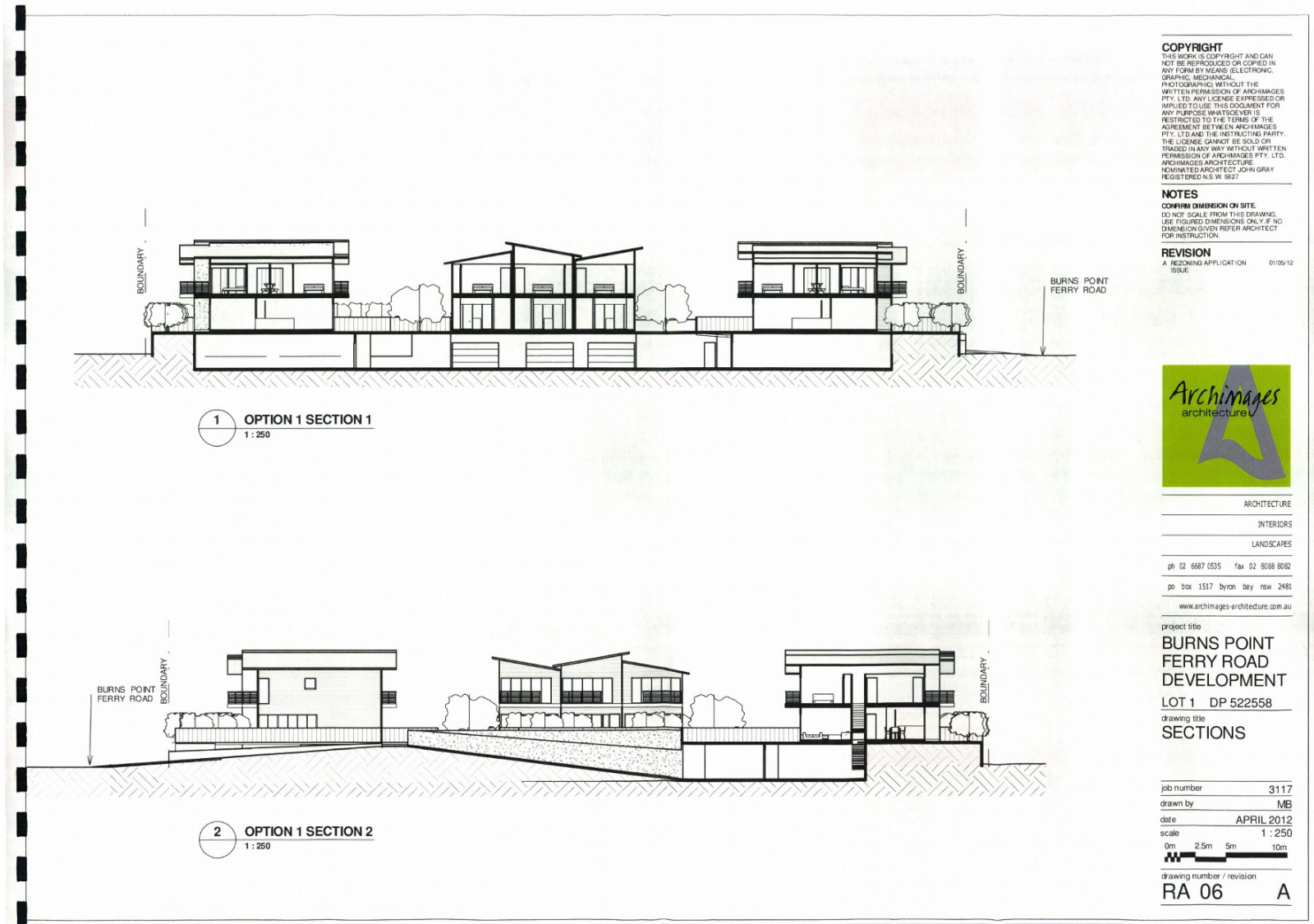


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project title
BURNS POINT FERRY ROAD DEVELOPMENT
LOT 1 DP 522558
drawing title
ELEVATIONS

job number 3117
drawn by MB
date APRIL 2012
scale 1 : 250
0m 2.5m 5m 10m
drawing number / revision
RA 05 A

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



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SECTIONS

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scale 1 : 250
0m 2.5m 5m 10m
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9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

1 OPTION 1 3D VIEW 1

2 OPTION 1 3D VIEW 2

3 OPTION 1 3D VIEW 3

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 LOT 1 DP 522558

drawing title
3D VIEWS

job number 3117
 drawn by MB
 date APRIL 2012
 scale

drawing number / revision
RA 07 A

9.1 **LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC**

EXISTING STREET CHARACTER AND PROPOSED STREET TREES



- Commence establishment of an avenue of large trees (species to be determined) along the 'gateway' entrance into Ballina
- Local street trees (Tuckeroo) extended to Old Pacific Highway

Left: Aerial photograph (February 2010 - Google Maps) showing site location and context

Below left: View from Burns Point Ferry Road looking northward

Below right: View from Burns Point Ferry Road looking southward



LANDSCAPE DESIGN OBJECTIVES: STREETScape

- Add interest and variety to the streetscape at street level
- Create an example of appropriate medium density coastal development at the gateway to Ballina
- Incorporate terraced landscape frontages to balance the height of the built form with the surrounding suburban neighbourhood character
- Use locally native plants where appropriate
- Consider large street trees outside the site to assist with reinforcing the 'gateway' status of the precinct



Existing street trees and garden plantings. The above images have been obtained from various sources and are not necessarily the work of design team ink.



TYPICAL SECTION - BURNS POINT FERRY ROAD FRONTAGE

Burns Point Ferry Road Development
Landscape Schematic Design
 design team ink 26.04.12

simple and modern forms private addresses the street appropriate scale

STREETScape
 General Principles and Concepts

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

Tree or shrubs in raised planter

Raised planters provide deeper soil zones for shrub and tree planting

Trees - soil min depth 1m
Shrubs - soil min depth 0.6m
Groundcovers or lawn - soil min depth 0.3m

Grass or low groundcovers

0.3m soil (min)

0.6m depth of soil (min)

Sand or filter medium

Geotextile

Drainage cell or flow cell

Waterproof membrane

Roof slab

Discharge point

Paved walkways

Roof slab

TYPICAL PODIUM GARDEN SECTION

LANDSCAPE DESIGN OBJECTIVES: INTERNAL COMMON AREAS

Provide deeper soil zones (min. 600mm depth), through raised planters and recessed basement roof spaces, to allow for incorporation of larger plant species

Clearly define common and private spaces and entry points through the strategic location of certain plants and incorporation of decorative screen panels

Use planting and landscape elements to provide privacy between dwellings (without conspicuous fencing)

Provide opportunities for quiet passive social interaction within common areas

Provide a place for local sculpture and art

Large illuminated pots

Wax design 'Loop seat'

Secret gardens of Sydney

Raised planters allow for tree planting on podium levels

Street Tree
(Cupaniopsis anacardioides and Banksia integrifolia)

Screening Shrubs
(Acmena smithii)

Strap leaf groundcovers
(Lomandra sp. Dianella sp.)

Spreading groundcovers
Myoporum parvifolium
Banksia cultivars

The above images have been obtained from various sources and are not necessarily the work of design team ink.

UNIT 18

UNIT 17

UNIT 16

UNIT 15

UNIT 14

UNIT 13

UNIT 12

UNIT 11

UNIT 10

UNIT 9

UNIT 8

UNIT 7

UNIT 6

UNIT 5

UNIT 4

UNIT 3

UNIT 2

UNIT 1

UNIT 18

UNIT 17

UNIT 16

UNIT 15

UNIT 14

UNIT 13

UNIT 12

UNIT 11

UNIT 10

UNIT 9

UNIT 8

UNIT 7

UNIT 6

UNIT 5

UNIT 4

UNIT 3

UNIT 2

UNIT 1

Legend:

- Raised planters (Tree or shrub planting)
- Raised planters (Groundcovers)
- Paving
- Wall art or sculpture

Refer to Typical Courtyard Plan

Refer to Architectural Plans by Archimagines

TYPICAL PLAN OF COMMON AREA

Burns Point Ferry Road Development

Landscape Schematic Design

design team ink 26.04.12

raised planters defined walkways privacy without dominant fencing native and food plants

INTERNAL COMMON AREAS

General Principles and Concepts

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

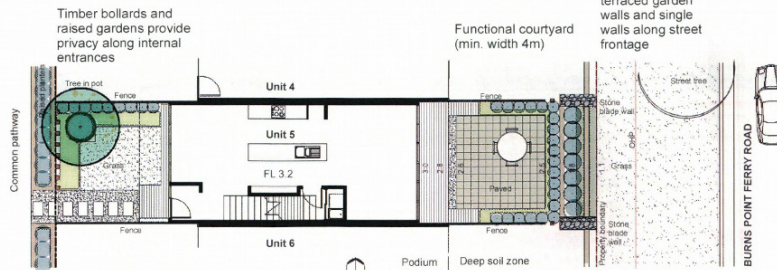
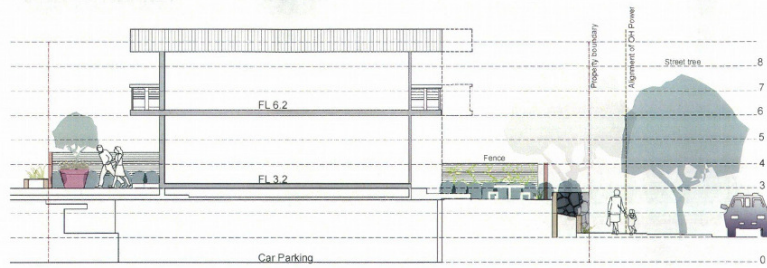


Strap leaf groundcovers
(*Lomandra* sp. *Dianella* sp.)

Spreading groundcovers
Myoporum parvifolium
Banksia cultivars

Shrubs
Cordyline sp
Acmena 'Ailyn magic'
Leptospermum sp.

Some exotics
Strelitzia reginae
Hymenocallis littoralis
Clivia miniata
Agave
Bambusa textilis 'Gracilliss'



TYPICAL COURTYARD SKETCH PLAN: LEVEL 2 (PODIUM)
Refer to Architectural Plans by ArchImages

Burns Point Ferry Road Development
Landscape Schematic Design
design team ink 26.04.12

LANDSCAPE DESIGN OBJECTIVES: PRIVATE COURTYARDS

- Optimise the functionality and usability of external courtyards
- Allow for the personalisation of courtyards by residents
- Provide privacy between dwellings
- Minimise the use of fencing where possible
- Utilise perimeter deep soil zones for planting of larger shrubs and trees

- Small and functional courtyards for table setting
- Step-down from building to courtyards
- Feature elements and sculpture
- Timber privacy screens
- Planter boxes
- Simple, open and private spaces



The above images have been obtained from various sources and are not necessarily the work of design team ink.

simple and functional shapes private orientated to best solar aspect native and food plants

PRIVATE COURTYARD AREAS
General Principles and Concepts

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



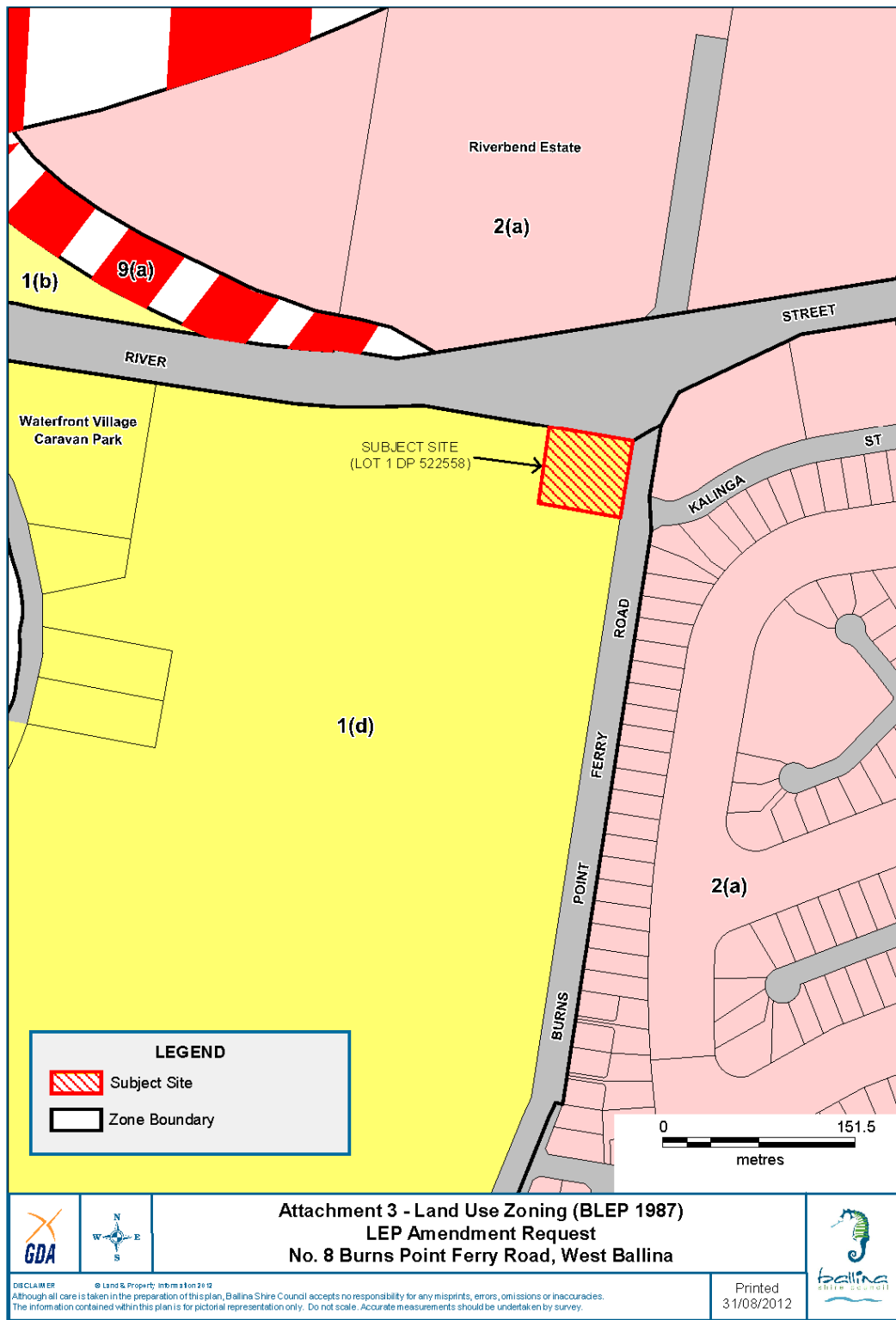
Burns Point Ferry Road View – 3D Architectural Representation

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

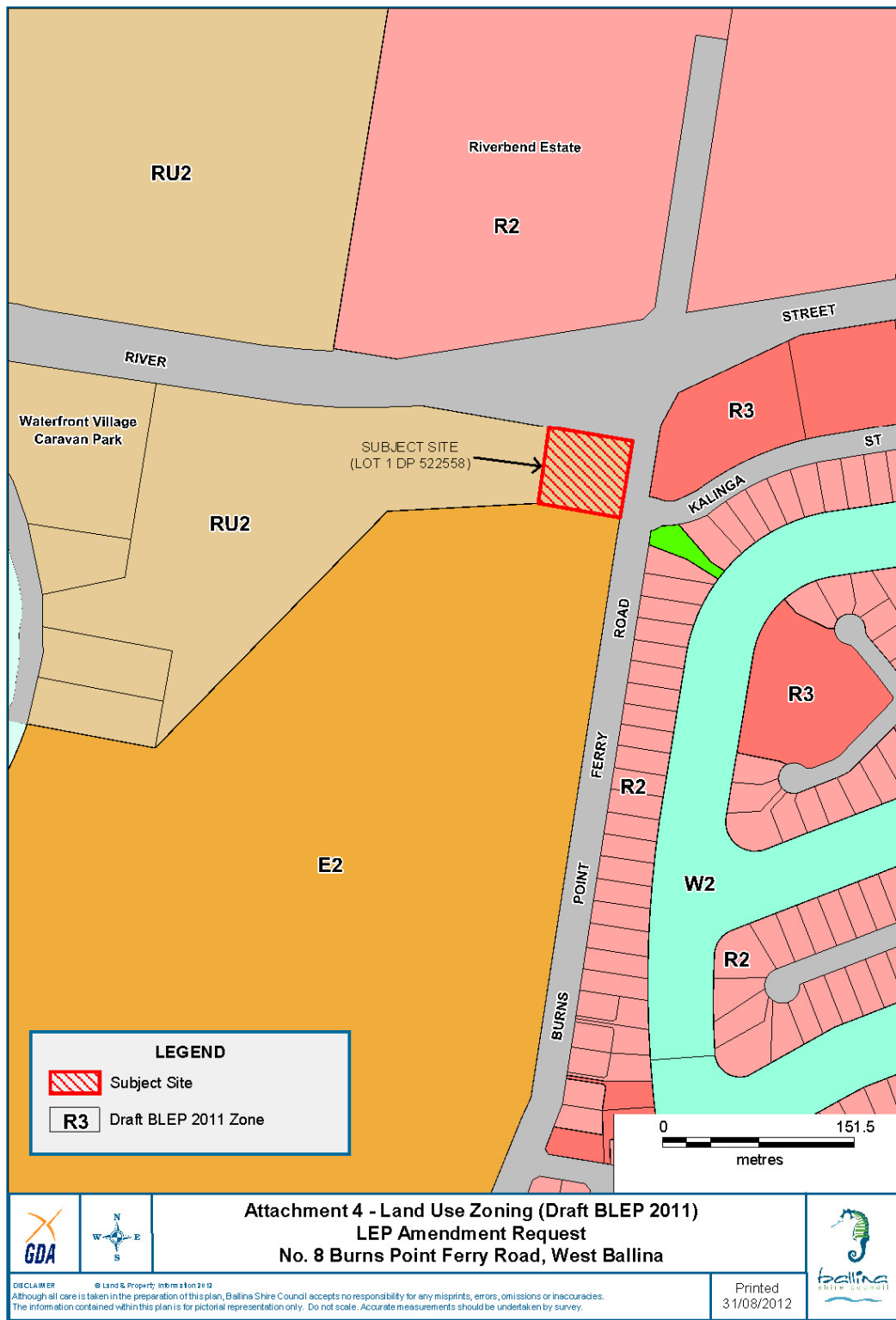


River Street (Former Pacific Highway) View – 3D Architectural Representation





9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC



		<p>Attachment 4 - Land Use Zoning (Draft BLEP 2011) LEP Amendment Request No. 8 Burns Point Ferry Road, West Ballina</p>	
<p><small>DISCLAIMER © Land & Property Information 2012 Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.</small></p>		<p>Printed 31/08/2012</p>	

9.1 **LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC**

**Chronology of Council Resolutions and Activity
Ballina Waterways/ Burns Point Ferry Road**

Date	Action
November 1995	Council resolved to prepare an amendment to the Ballina Local Environmental Plan for the area " <i>bounded generally by the Pacific Highway, Emigrant Creek, the Richmond River and Burns Point Ferry Road, with the purpose of the plan being to facilitate the urban development of the site</i> ".
June - July 1997	Exhibition of draft amendment 39 to the BLEP 1987.
June 1999	Amended concept plan submitted by Steel & Associates Pty Ltd that attempts to address public and public authority submissions to the public exhibition.
July 1999	Council resolved to exhibit the revised rezoning proposal.
September 1999	Exhibition of the revised proposal deferred pending submission of further geotechnical information.
1999 - 2005	Ongoing work relating to resolving technical issues on the site.
November 2005	Rezoning request received seeking support from Council to rezone the land to facilitate residential development in the northern half of the site, with the remainder of the area to be zoned for environmental protection purposes. The request was worded as if it were a fresh application (i.e. not reliant on the previous decisions of Council) and an application fee was paid.
January 2006	<p>Council resolved as follows:</p> <ol style="list-style-type: none"> 1. <i>That the Council proceed to commence the formal processing of the requested amendment to the Ballina Local Environmental Plan 1987 relating to Lot 4 DP 537417 with the matter to be the subject of a further report to the Council providing additional technical detail with respect to the proposed amendment.</i> 2. <i>The Council workshop proposed on developer agreements will further define Council's expectations with respect to this particular development and the potential for a marina.</i> <p>The report included the following statement:</p> <p style="padding-left: 40px;"><i>This report is essentially to inform the Council with respect to whether or not it is considered the request is consistent with the adopted criteria for the commencement of formal processing, and to seek direction from the Council as to whether the formal processing of the request should commence.</i></p> <p style="padding-left: 40px;"><i>It is important to note that the commencement of the formal amendment process in no way binds the Council to rezone the land.</i></p> <p style="padding-left: 40px;"><i>Commencement of the process merely means that more detailed technical assessment of the proposal will start. Should Council wish to continue consideration of this proposed amendment, the next step will be the presentation of a more detailed report to the Council regarding the technical aspects of the proposal based on an initial review of the material provided by the proponent.</i></p> <p>The Council resolution was not forwarded to the DOP under S54(4) of the Act. The following advice was provided to the proponent:</p> <p style="padding-left: 40px;"><i>Please note that Council's consideration of the matter to date stops short of a decision to prepare a draft local environmental plan, as required under Section 54 of the Environmental Planning and Assessment Act.</i></p> <p>This is the origin of draft LEP Amendment No.93.</p>
July 2006	Council considered an update report concerning the rezoning. The report advised that there were a range of constraints over the land which were still being assessed. Council resolved as follows:

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

	<p><i>That the report concerning the current status of the request for rezoning of Allotment 1 DP 537417 Burns Ferry Road, West Ballina be received and noted.</i></p>
<p>October 2008</p>	<p>Response from Landpartners (formerly Aspect North) to Council's list of issues, withdrawing the concept plan and requesting:</p> <ul style="list-style-type: none"> • That the 4.76 ha area adjacent to the Pacific Highway be rezoned for urban development. • The potential to explore further development options over the balance of the land be preserved by maintaining the current zone or equivalent and that it be considered for urban expansion in the Urban Land Release Strategy.
<p>December 2008</p>	<p>Council resolved as follows:</p> <p><i>That in respect to the subject land matters Council resolves to proceed with option two as identified in the body of this report.</i></p> <p>Option 2 is reproduced below:</p> <ol style="list-style-type: none"> 1. Advise the various land owners that Council is supportive of rezoning the 4.76 ha area of the Ballina Waterways site adjacent to the Pacific Highway and the immediately adjoining lands for urban purposes as part of the comprehensive Draft Local Environmental Plan, provided that: <ol style="list-style-type: none"> a. An integrated rezoning strategy is provided in conjunction with the Ferry Boat Motel site. b. The proposed zoning facilitates the development of the land for low key tourist accommodation, aged care, manufactured home estate, business or low key/impact industrial or a mix, rather than conventional residential allotments. c. A zoning strategy includes areas to be set aside for environmental protection, compensatory environmental measures and strategies for long term maintenance of environmental protection areas. d. The owners of the Ballina Waterways and former Ferry Boat Motel site provide commitments towards access being provided to and across the site in accordance with the NSW Roads & Traffic Authority recommendations i.e. extension of Kalinga Street across the site to give alternative access to Emigrant Lane. e. A planning agreement is provided that outlines all undertakings/proposals that cannot be secured or delivered via the proposed zoning; or <p>(Note: It is envisaged that the owners of the adjoining Emigrant Lane Properties would be contacted to ascertain their preference for the future zoning of their land.)</p> <p>The Report to Council included the following advice:</p> <p><i>Council has the ability to include the subject land and the other adjoining land in a draft plan under the terms of Council's original resolution at its Ordinary Meeting held on 23 November 1995:</i></p> <p><i>"to prepare a local environmental plan to amend the provisions of the Ballina Local Environmental Plan 1987. The amending plan shall apply to that area in West Ballina bounded generally by the Pacific Highway, Emigrant Creek, the Richmond River and Burns</i></p>

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site).DOC

	<p><i>Point Ferry Road, with the purpose of the plan being to facilitate the urban development of the site".</i></p> <p><i>Recent advice from the Department of Planning suggests that Council can continue to act on this original resolution if it wishes to prepare a draft plan for this land. Council will, however, need to obtain a Section 65 Certificate from the Director-General of Planning for the public exhibition of a draft plan.</i></p> <p><i>If Council is to support any rezoning of part of the land for urban purposes, it may have to be undertaken as part of the comprehensive new Draft Local Environmental Plan, given the timing of both matters.</i></p> <p>Consideration of the amendment proceeded under draft LEP Amendment No.39.</p>
July 2009	Steve Connelly gives presentation to Councillors concerning revised concept for the site.
April 2010	<p>Council request for clarification regarding proponent's progress in relation to the amendment. Request sought clarification in relation to the following:</p> <ol style="list-style-type: none"> <i>whether or not your client intends to proceed with the current rezoning request; and</i> <i>should your client still be proceeding with the rezoning proposal, the likely timeframe for the submission of the required technical information connected to the rezoning.</i> <p>No specific response was received.</p>
May 2010	Council request to Department of Planning for entry of LEP amendment no.39 into the Gateway planning system. Amendment could not continue under the previous LEP amendment system.
June 2010	Department of Planning advice that conversion of the existing draft to a planning proposal under the Gateway system was not supported. This advice closed the consideration of the LEP amendment request (39) previously presented to Council.
October 2010	Advice from SJ Connelly that Part 3A submission lodged with Department of Planning. Council advised of a mixed urban/ environmental concept for the land (including biobanking).
May/ June 2011	Project identified as not being received into the Part 3A assessment system under reforms to Part 3A.
May 2012	LEP amendment request received to rezone Lot 1 DP 522558 (former Ferry Boat Motel site) to allow medium density residential development.
July 2012	LEP amendment request received to rezone Lot 4 DP 537419 (Ballina Waterways site) comprising a mix of urban and environmental conservation land uses (including biobanking).
September 2012	LEP amendment request for Lot 1 DP 522558 (former Ferry Boat Motel site) reported to Council with recommendation to proceed with preparation of a planning proposal for Lot 1 only. Proposal for Lot 4 to be assessed and reported separately.