

3. DA No. 2009.0728 – Proposed viewing platform at Tura Beach

Group Manager, Planning and Environment

Applicant	Pambula-Merimbula Lions Club
Owner	Department of Lands
Site	Crown road reserve adjacent to Reserve 60026 for Public Recreation, Tura Beach (Locality plan provided as Attachment B)
Zone	6(a) Existing Open Space
Proposed development	Viewing platform ancillary to walking track

PRECIS

Council is in receipt of a development application for the construction of a viewing platform near the edge of the cliff overlooking Tura Beach, in the vicinity of Surf Circle.

A number of objections were received in relation to the proposal which are detailed in this report.

10 The application is recommended for approval.

BACKGROUND

In 2005 Council approved a walking track to be constructed from the Tura Beach car park at the northern end of Surf Circle to link with the Mirador subdivision. The track was commenced in mid-2006 and has been completed and in use for some time.

The proposed viewing platform is located adjacent to the walking track and aims to provide a viewing area for users of the track to rest and enjoy the views of the coast.

20 Staff raised concerns with the applicant regarding the location and design of the viewing platform in terms of the potential for ongoing vegetation disturbance to improve views, erosion and sedimentation controls, cliff stability and encouraging access to the beach via an existing steep and unsuitable access track.

As a result of discussions and an onsite meeting, the design and location of the viewing platform has been amended to address the concerns of staff, which are detailed in this report.

DESCRIPTION OF THE PROPOSAL

The proposal is for the construction of a timber structure, 2.55 metres by 4.6 metres in dimension, the platform of which will be located a maximum of 1.0 metre above natural ground level. The platform incorporates a table with seating. A ramp with maximum gradient of 1:20 is proposed to provide access from the walking track.

30 A 2.0 metre wide compacted gravel path will be extended from the existing walking track to the viewing platform, through a canopy of melaleucas.

A series of drains are proposed along the access track and adjacent to the platform to direct stormwater flows to a stilling pond, prior to being discharged over the edge of the cliff face.

A copy of the proposal is provided as Attachment A.

DESCRIPTION OF THE SITE

The site is part of a Crown road reserve that runs parallel to public reserve. This section of crown land separates private property along Surf Circle and Tura Beach.

The immediate locality of the platform is characterised by a stand of melaleucas which form a buffer between the cliff edge and the walking track.

40 Access to the platform site already exists, and evidence of use for beach access is noted, however this is via an extremely steep cliff descent down to the beach.

A locality plan is provided as Attachment B

PLANNING ASSESSMENT

The proposal has been assessed in accordance with the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Staff highlight the key issues of the proposal in this report for Council's consideration.

Zoning

50 The subject site is zoned 6(a) Existing Open Space. The proposed viewing platform structure is considered to be ancillary to the use of the walking track (outdoor recreation). The proposal is permissible and is consistent with the objectives of the zone.

ISSUES

Environmental impact

The location of the proposed viewing platform as originally submitted to Council would have resulted in the removal of vegetation for construction and also the removal of vegetation to improve sight lines up and down the coast. Staff were concerned that

there was potential for additional gradual vegetation loss over time to continue to improve sight lines.

60 As a result of onsite discussions with the applicant, an amended design was submitted which relocated the platform approximately 3 metres to the south of the original location. This location would allow direct access to the platform from the proposed access track, which would reduce vegetation removal, and would discourage users attempting to access the beach down the steep and dangerous cliff face.

The amended location would achieve suitable sight lines both up and down the coastline without the need for additional vegetation removal.

70 The proposal would require the removal of several melaleucas from both the access track and in the immediate location of the platform. This vegetation loss is considered to be minimal and would not significantly alter the environment of the location, nor the visual amenity of the site when viewed from the beach or the reserve behind the cliff (and adjoining private properties).

Suitable erosion and sediment controls would also be required to be installed prior to, during and post construction, with all stormwater drainage works suitably directed to minimise cliff erosion.

In addition as a condition of consent staff recommend that a qualified and practicing structural engineer certify the design of the platform to ensure structural adequacy for the location prior to any construction works commencing.

80 Based on the amended design and location of the structure staff are satisfied that the environmental impacts of the proposal can be suitably minimised and mitigated with suitable erosion and sediment controls, stormwater drainage and revegetation. Such measures are proposed to be required as conditions of consent.

Access

Access to the site is via pedestrian means only from the Tura Beach carpark via an existing track off the main walking track. This existing access point would require some upgrading in order to provide a suitably drained and accessible path of travel from the main track. No car parking is proposed or required nearer to the viewing platform. The platform is ancillary to the walking track and would provide a periodic resting point for users of the track.

90 Access to the site for construction works would be minimal. The Lions Club typically undertake such projects as a 'working bee' type arrangement. The applicant has indicated that there would be limited heavy equipment required to construct the platform and the construction timeframe would be minimal, as this is a small construction project.

Standard conditions of consent would be included in any approval in relation to construction operations.

Visual impact

The siting of the viewing platform is within a stand of melaleucas which form a thick visual buffer between the cliff edge and the Reserve and private residences behind the cliff. The viewing platform would not be visible from the walking track or adjoining residences.

100 The platform would not be visually obtrusive when viewed from the beach areas or water and being constructed of timber would suitably blend in with the vegetation behind.

Risk Management

Risk management is a significant consideration for this development. Staff were concerned that the original design, which was offset from the existing cliff access, could encourage users to descend the cliff to the beach below.

110 In order to minimise any potential for this to occur, the platform location has been amended so that the structure would inhibit direct access down the cliff. Minimising the potential for access in this location would also reduce the likelihood of continued cliff erosion.

Strategic plantings on either side of the structure would also assist in discouraging users to the edge of the cliff. The applicant has also indicated that suitable fencing could be erected on either side of the platform to further control users of the facility.

In addition suitable signage should be erected with identifies potential hazards to users of the facility.

These additional risk management measures would form conditions of consent should the application be approved.

Asset

120 Councils Urban Projects and Building Unit have assessed the proposal and no objection was raised to the construction of the structure provided that on-going maintenance is undertaken by the Lions Club and that consideration be given to the use of materials with a suitable fire rating so that the structure is more durable in the event of a bushfire.

In this respect the structure, if approved, should be constructed of treated pine bearers and joists and hardwood decking.

The use of hardwood decking of varying widths is also recommended to add visual interest to the structure.

This would form a condition of consent if approved.

Social / Cultural

130 Council's Access Committee provided an assessment of the proposal and offered the following comments;

There needs to be an overhang at each end of the table to permit people in wheelchairs to gain access to the table-top easily, without interference to wheelchair footplates below.

Although the platform is up the track from the carpark, it is anticipated that in the future the track could be made more accessible for people in wheelchairs to access the beautiful views on the proposed platform.

140 The applicant has advised that the design change recommended by the Committee could be incorporated into the design. This would form a condition of consent if approved.

In relation to the potential for future upgrading of the existing track, the applicant has indicated that the aim is to eventually upgrade this track to a shared concrete cycleway/walkway between Tura Beach carpark and Merimbula. This would be subject to reliance on suitable funding arrangements being identified.

Consultation

150 Consultation was undertaken with the Local Aboriginal Land Council representatives. No impediment to the location of the viewing platform was raised by the Land Council. It is recommended that a site officer be present during excavation of the footings as Aboriginal sites are known to exist in the area to the north and south of the proposed development. This would form a standard condition of consent should the application be approved.

Submissions

The application was notified to adjoining and adjacent landowners and occupiers over the period 30 January 2009 until 13 February 2009. A total of three submissions were received raising objection to the proposal. Further two petitions were received one with 37 signatures supporting the proposal and one with 47 signatures objecting to the proposal. A summary of the comments raised in submissions is provided as Attachment C to this report. The key issues are highlighted in bold in the following, along with staff comment.

160 ***Vegetation removal and site impacts***

As mentioned previously the platform location has been amended to ensure minimal vegetation loss occurs as a result of the development. The amended design would see the removal of 17 melaleucas ranging in trunk diameter of 60mm to 90mm. The overall canopy and wind break effect currently created by this coastal vegetation would remain substantially in tact upon completion of the works. Staff acknowledge that there would be some environmental impact as a result of the development, however consider that those impacts can be suitably minimised by the location of the platform and by

appropriate plantings around the development site, erosion and sedimentation controls and strategically located fencing.

170 ***Visual amenity and impact on character of the locality***

As mentioned previously the visual impact of the proposed viewing platform would be minimal as the existing canopy of melaleucas would maintain a visual buffer between the structure and adjoining public reserve and private residences.

Hazards

The ability for the structure to withstand a bushfire event would be slightly improved due to the use of hardwood construction.

Suitable fencing to define the area along with suitable signage would also be required to advise users of the environment in which they are entering.

These would form conditions of consent should the application be approved.

180 **CONCLUSION**

The proposal is considered to provide an additional opportunity for enjoyment of the views of this section of coastline and is a suitable addition to the walking track project.

The amended location of the viewing platform would provide sight lines up and down the coast with minimal vegetation disturbance and site impacts. Staff consider that suitable measures could be incorporated into the design and through conditions of consent to minimise any adverse impacts as highlighted in this report.

The proposal is recommended for approval.

RECOMMENDATION

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1. That Development Application 2008.0728 for a viewing platform on Crown road reserve adjacent to Reserve 60026, near Surf Circle Tura Beach be approved subject to appropriate standard conditions plus the special conditions outlined in Attachment D.
 2. That those parties who made a submission be advised of Councils decision.

ATTACHMENT B – LOCALITY PLAN



ATTACHMENT C – SUMMARY OF SUBMISSIONS

Issues/comments	Staff comment
<ul style="list-style-type: none"> ▪ I don't think that your viewing platform is necessary. ▪ Also the road is not wide enough for cars to park. ▪ Please leave it as it is 	<ul style="list-style-type: none"> ▪ Comments noted ▪ No road access is proposed or required. Carparking is provided at the beginning of the walking track for users to park and walk to the viewing platform.
<ul style="list-style-type: none"> ▪ We feel among many reasons it will be a wonderful advantage point for whale watching and in particular for the elderly who can't walk the beach and need a seating area 	<ul style="list-style-type: none"> ▪ Support noted
<ul style="list-style-type: none"> ▪ The application is misleading and incomplete. The construction of this project will require significantly more land than is indicated in the plans supplied, to admit machinery and allow for vegetation regrowth without impingement on the development ▪ No Long Service Levy has been paid ▪ No details are given for the builder ▪ No inspection of the area in question by indigenous leaders ▪ Why has council not been appointed Principal Certifying Authority (PCA)? ▪ No details of political donations and disclosure of gifts ▪ Lions Club's application makes mention that the structure caters for people with a disability. I would like someone from Lions Club to explain to me how they would legally and practically get a person with disability to the entrance to the platform, since the only legal access is over a long, unpaved, uphill and badly eroded track. ▪ Do the proposers really imagine that tourists who do not know the area and others who never use the 	<ul style="list-style-type: none"> ▪ Additional information has been provided to Council to enable a thorough assessment of the proposal. ▪ LSL not required for works of this value. ▪ No builder is proposed. All works are to be undertaken by Club members. Works will be certified by a qualified and practicing structural engineer. ▪ An applicant can nominate Council as the PCA prior to works commencing. The applicant has indicated that Council will be the certifying authority. ▪ The applicant has indicated that no political

track will really seek out and use the pedestrian access to the platform when there is a whale to watch, which may disappear in the next few minutes?

- The proposal makes no provision to restrict illegal access.
- This proposal would require the removal of at least 6m of this vegetation (4.8m given external dimension of platform, plus assumed 0.6m clearance to vegetation either side). It is highly likely that the removal of this vegetation will cause far more erosion of the cliff face since the vegetation would no longer be available to slow stormwater runoff nor to stabilize the soil.
- The track from which access is gained will undergo erosion from the damage caused by construction equipment.
- Exposure of the understorey to the full severity of the coastal conditions will undoubtedly change the habitat for the creatures there. Traffic into the zone may carry weeds.
- The previous bushfire which endangered this area was caused by people illegally starting a fire on the beach. Is it not reasonable to assume that such people may also attempt to start a fire on the platform (as they have on other such platforms) or in the bush around the platform?
- The hazard of landslip has not been studied and cannot be ignored. The hazard of children climbing on the proposed balustrade and falling over the cliff has been ignored. The hazard of people climbing around the platform and making their way down the cliff face has also been ignored.
- I do not believe that surveyors or engineers have been consulted.
- No sediment fence along the access track is shown.
- In its present location I have grave concerns about safety, erosion, privacy, visual aspect, change in the nature of the area and impingement on wildlife.
- I live within sight of the start of the access to the proposed platform. Last week, we kept a close eye on the people who passed this point. I believe there were fewer than 10 – including ourselves – for the week.

donations have been made.

- The ramp to the platform will be accessible by people with a disability. There is the potential for the access track to be upgraded at a concrete standard in the future to improve accessibility for users.
- Access over private property is a matter for the owners of that private land. Bollards have been installed along the access track in strategic locations
- The issue of potential vegetation loss over time to improve views at the location was also of concern to staff. As a result the applicant has agreed to relocate the structure slightly to minimise the likelihood of vegetation removal over time. In addition the new location would afford more substantial views both up and down the coast for users of the viewing platform.
- Staff acknowledge that some vegetation removal will occur as a result of the construction of the viewing platform. The amended location has been selected to minimise site disturbance.
- Suitable erosion and sedimentation controls would be required to be installed prior to, during and post construction to Councils satisfaction.

PLANNING AND ENVIRONMENT COMMITTEE

7 July 2009

<ul style="list-style-type: none"> ▪ It was generally seen that the resources of the Lions Club would be much better spent on other projects, whereas this project would encounter little use and provide little benefit. ▪ Issues include loss of environmental amenity, loss of privacy, visual impact, loss of privacy on the beach. ▪ No mention is made in the proposal of maintenance. ▪ A further issue is the removal of rubbish. 	<ul style="list-style-type: none"> ▪ In relation to potential hazards, full engineering details will need to be submitted to Council for approval prior to the issue of the construction certificate. The engineering design would need to certify that the structure is suitable for the location. ▪ Suitable user warning signage and fencing would also be required as a condition of consent. ▪ Ongoing maintenance is to be by the Lions Club and not Council.
<ul style="list-style-type: none"> ▪ I have lived at the above address for 8 ½ yrs & have a glorious view of the bay & I love to watch the whales from our house through binoculars. Quite honestly whales rarely enter the bay, on about 4 occasions over the 8 ½ years, we have seen Southern Right whales with calves. They generally stay resting very close to shore for 3 to 4 days, slowly moving up & down the bay before heading south again. Other whales, the Humpbacks, rarely come inside the headlands of Tura & Short Point and then only for less than an hour. The very best viewing areas are Tura Headland and Short Point Headland. So therefore I do not think that a viewing area for whale watching would be of much use. ▪ Vandalism, as experience at many of these viewing platforms, eg Main Beach and Bournda, have been an unwanted and expensive experience. ▪ It is in my experience that the disabled are not able to get to this area. Platform should be placed at bottom of Tura Beach Drive at the pathway to the beach from the car park area. ▪ There are so many natural viewing areas along the coast line. Why is a man-made structure needed? 	<ul style="list-style-type: none"> ▪ Comments noted. ▪ Refer to staff comments throughout report.

<ul style="list-style-type: none"> ▪ The plan suggests 'minor clearing'. What is 'minor-clearing'? The clearing area would be for greater than the 4.6m viewing platform, as construction area would be needed around this. Vegetation to both side would need to be removed as the viewing angle is very limited. Erosion would also be a major problem. ▪ Councillors please inspect this site. 	
<ul style="list-style-type: none"> ▪ We the undersigned object to the above proposal on any or all of the following grounds; <ul style="list-style-type: none"> ○ The proposal changes the character of the Beach Protection Zone and surrounding area from natural bush environment to developed environment. ○ We object to the progressive removal of vegetation from the beach protection zone, which undermines the purpose of this zone and may cause increased wind behind the zone. ○ Removal of vegetation is likely to extend the erosion of the cliff face below the platform. ○ The walking track itself already shows visible erosion and we are concerned that the new works will allow further erosion. ○ Animal movement through the bush will be hindered. ○ The development does not comply with council building requirements and may therefore be unsafe. ○ Encouraging people to the top of the cliff face will result in some people making their way down the cliff face, resulting in safety, environmental and erosion issues. ○ The platform will impair the visual aspect from the beach. ○ The proposal is a waste of community resources, as relatively few people use the track and the resources could be better used in a number of other ways. ○ The proposal is misleading in that the vegetation described as "dead" is in fact alive, and 	<ul style="list-style-type: none"> ▪ Comments noted. ▪ Refer to staff comments throughout report.

that access for the necessary machines will require a wider track than proposed.

- Should the platform attract visitors by road, there is no provision or possible facility for car parking.

ATTACHMENT D –SPECIAL CONDITIONS

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- a. Treated pine bearers and joists and hardwood decking, of variable widths, shall be used in the construction of the viewing platform. Details shall be provided to Council for approval prior to the issue of a Construction Certificate.
 - b. A detailed landscape plan shall be submitted to Council for approval prior to the issue of the Construction Certificate which identifies revegetation planting around and under the structure. Plant selections shall be endemic to the area and suitable for the location and environment in which they will be planted.
 - c. A detailed design of the viewing platform is to be submitted by a practicing and qualified Structural Engineer and approved by Council prior to the issue of a Construction Certificate. All works shall be certified by a Structural Engineer at completion of works and prior to the issue of an Occupation Certificate.
 - d. Ongoing maintenance and repair of the structure and access track shall be undertaken by the Pambula-Merimbula Lions Club.

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 - e. Suitable fencing shall be provided on either side of the platform to discourage access to the beach from the cliff edge. Details are to be provided to Council for approval prior to the issue of the Construction Certificate.
 - f. Suitable signage shall be erected near the viewing platform identifying the potential risks to users of the facility. All signage shall be approved by Council prior to erection. All costs shall be borne by the Applicant. Approved signage shall be erected prior to the issue of an Occupation Certificate.

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 - g. An overhang shall be provided at each end of the table on the platform to enable people in wheelchairs to gain access to the table-top easily and without interference to wheelchair footplates below. Details shall be provided on the Construction Certificate plans.