

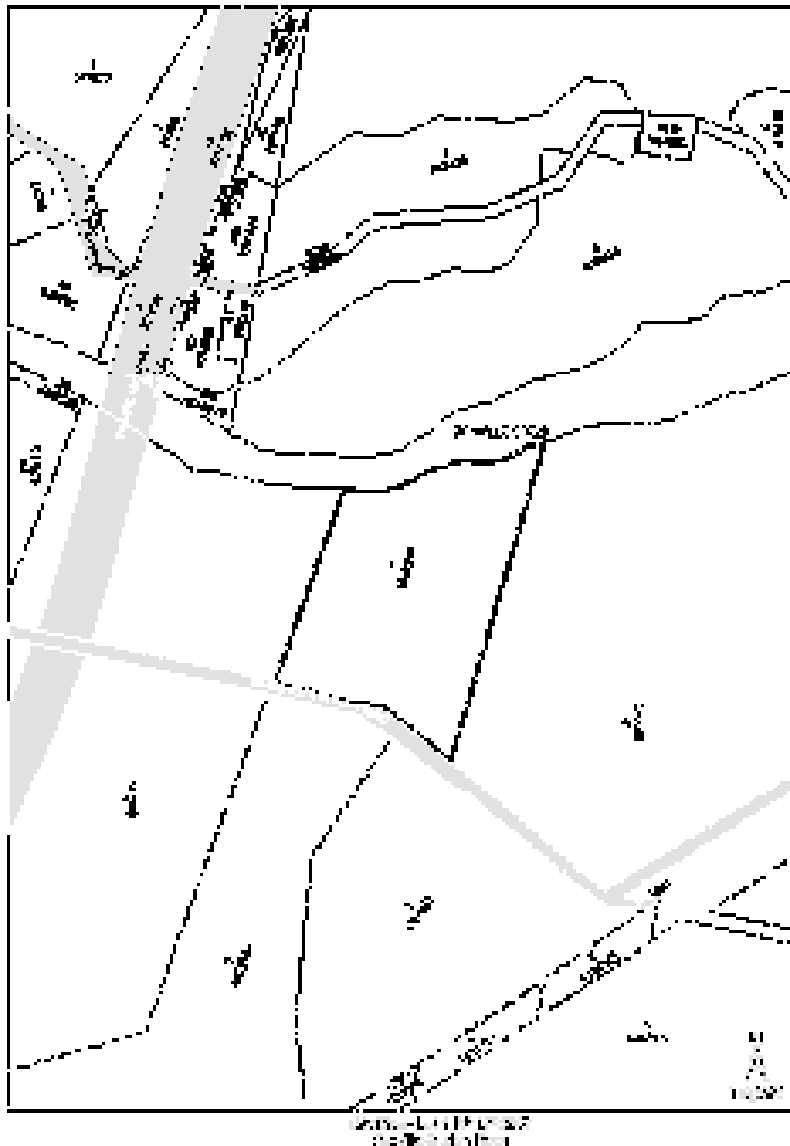
JRPP No.	Item 1 (2010NTH003)
DA No.	714/10
Proposed Development	DEVELOPMENT APPLICATION 1031/09 – SUBDIVISION (BOUNDARY ADJUSTMENT) – LOT 51 DP 1043356 AND LOT 200 DP 755536, NORTH BONVILLE ROAD, BONVILLE
Applicant:	Coffs Harbour Christian Community School
Report By:	Coffs Harbour City Council

## Assessment Report and Recommendation

### Purpose:

This report describes Development Application 714/10 for a Recreation Facility (High Ropes Course, Swing, and Power Fan).

The proposed development site is Lot 1 DP 1022247, Bonville Station Road, Bonville.



## **Description of Item:**

- **Background:**

The subject land is located on Bonville Station Road, Bonville and adjoins Bonville Creek/National Park to the north and existing agriculture lands to the east, south and west.

The subject site is 10.2ha in area and is currently used for recreation purposes (youth training and camp facility). An Educational Facility is located on land to the south of Bonville Station Road.

The land is zoned Rural 1A Agriculture and Environmental Protection 7A Habitat and Catchment under the *Coffs Harbour City Local Environmental Plan 2000*. Note: the proposed development is to be located on land wholly zoned Rural 1A Agriculture.

The subject land is located within the Coastal Zone as prescribed by the *Coastal Protection Act 1979*. The site is also constrained by a number of environmental attributes including: flooding, bush fire risk, and koala habitat. Much of the constrained land is located along the northern boundary of the site along the riparian areas of Bonville Creek. The proposed development is to be located away from such areas on land that is currently devoid of vegetation.

The application is to provide for additional adventure activities associated with the youth training and camp facility, with the addition of a high ropes course, power fan, and swing.

- **Current Application:**

Council received the application for a recreation facility in January 2010. The application was deemed to be insufficient pursuant to Schedule 1 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* due to inadequate construction plans that accompanied the application and inadequate location plans, particularly in relation to a water course on the subject site.

An amendment to the application was submitted to Council on the 4 February 2010 which detailed construction plans of the proposed development in addition to a location plan demonstrating that the proposed development is not located within 40m of a water course. In this regard, the application is not classified as 'Integrated Development' pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979*.

The following plans describe the proposal:

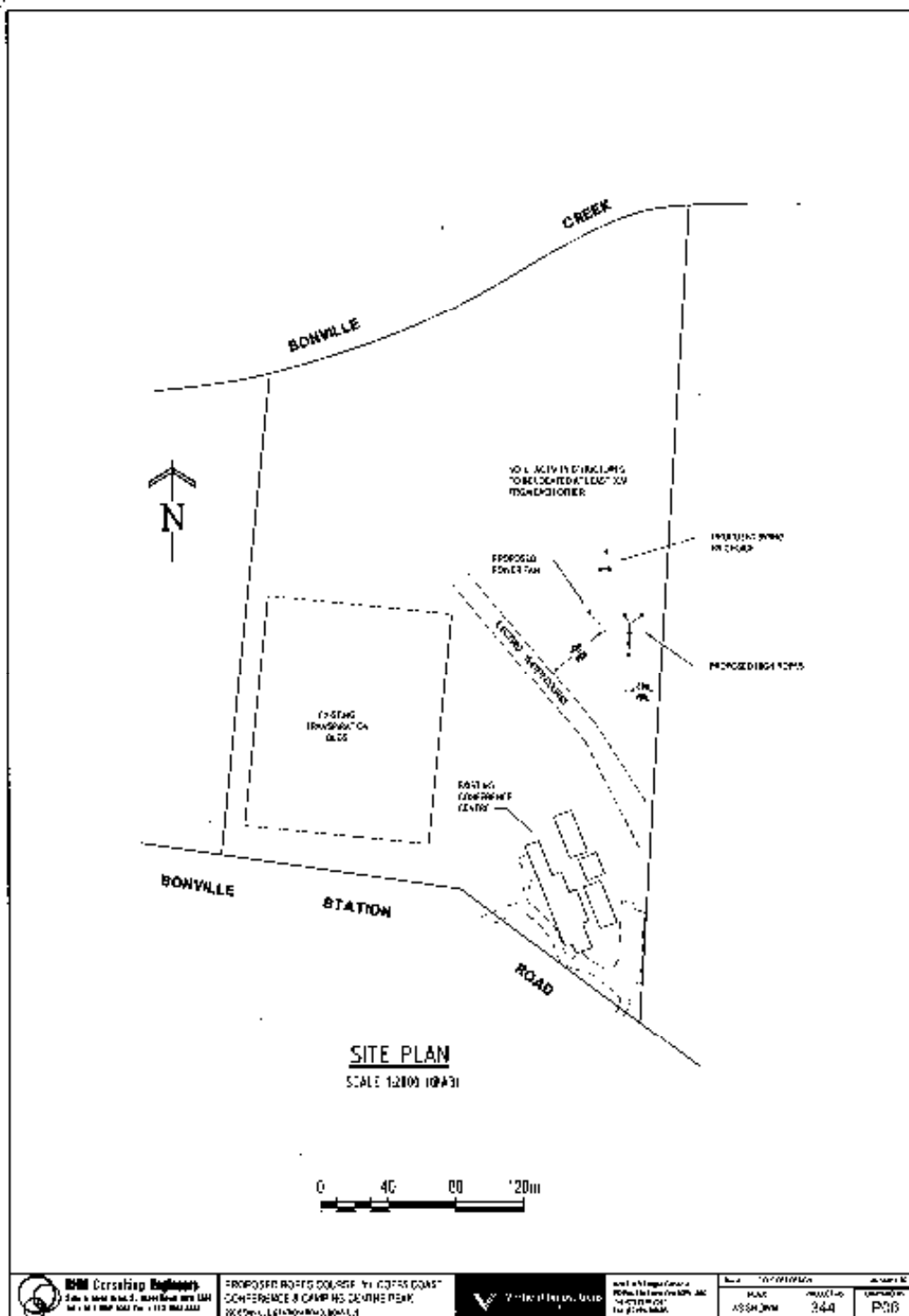
**Aerial Plan**



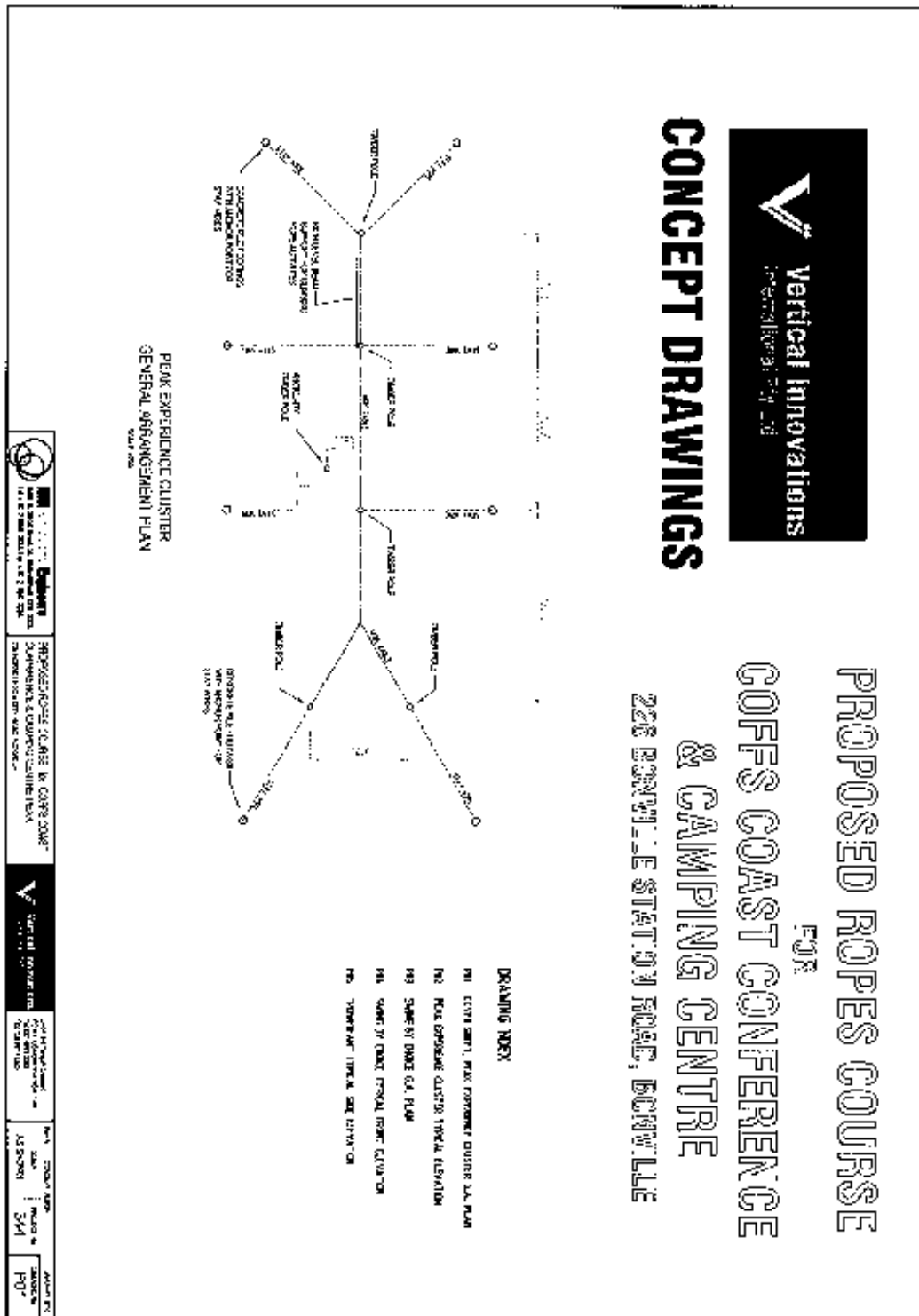
**Zoning Plan**



## Site Plan



# General Arrangement Plan

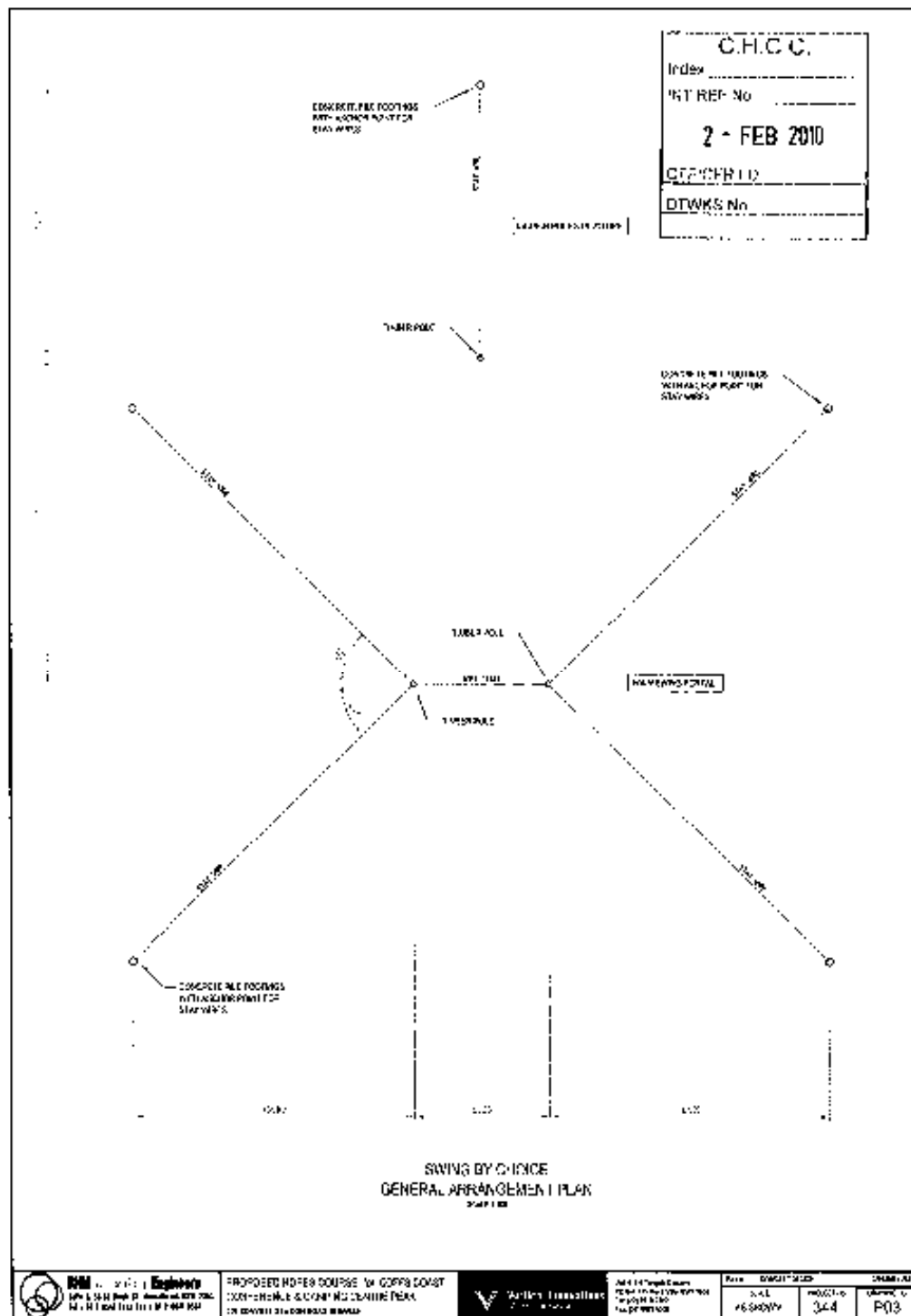


PEAK EXPERIENCE CLUSTER  
TYPICAL FRONT ELEVATION

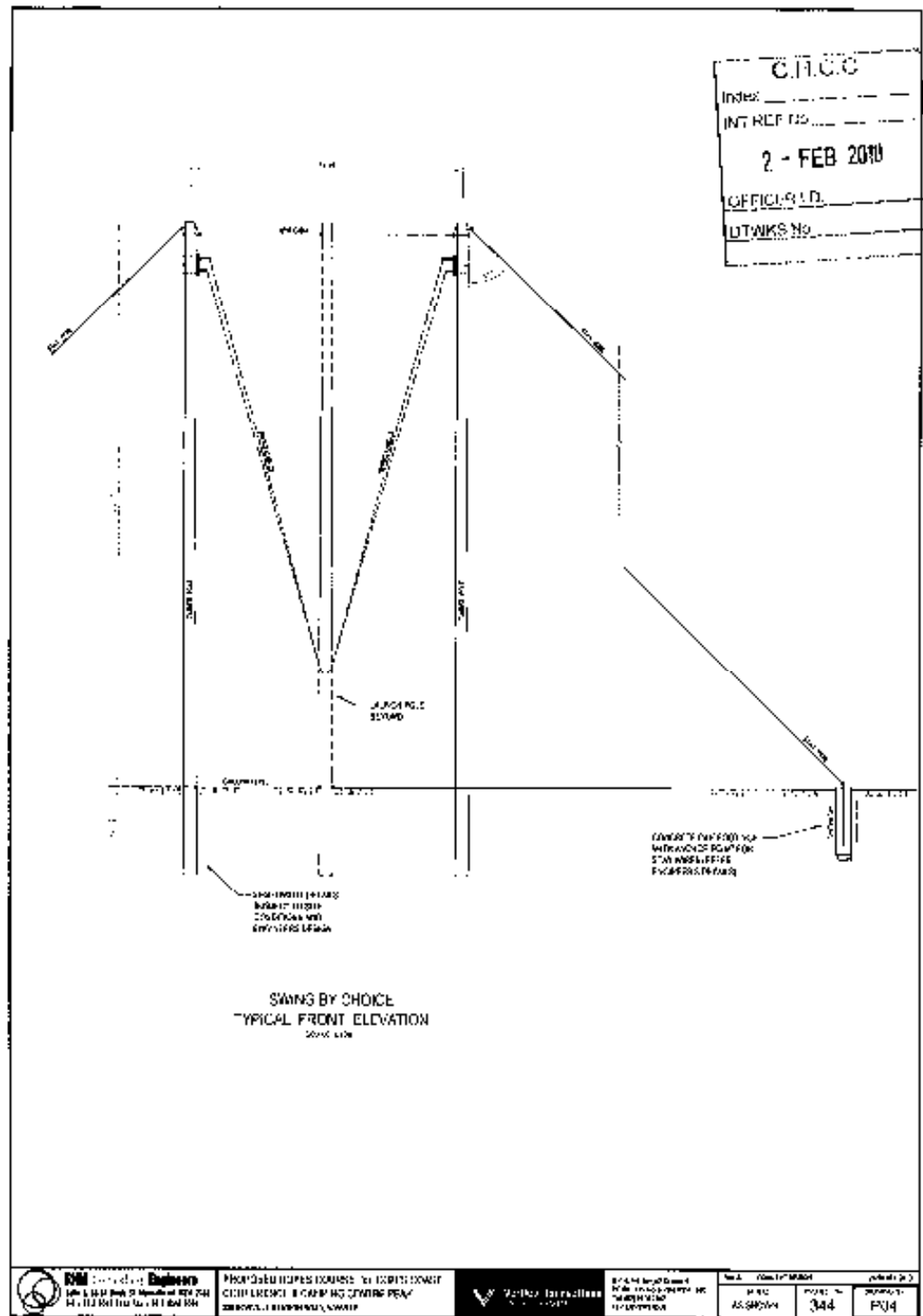
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## Swing by Choice General Arrangement Plan



# Swing by Choice Front Elevation Plan





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# 1. Giant Swing



## 2. Power Fan Drop



### 3. High Ropes Challenge Course



### Location of Facilities



**Consultation:**

The application has been referred to Council's Land Use Assessment Branch for comment in relation to the Building Code of Australia.

The application has also been notified to adjoining land owners for a period of 14 days in accordance with Council's Notification Development Control Plan. One submission has been made from an adjoining land owner (being the NSW Roads and Traffic Authority) in which no objections are raised in relation to the proposed development.

**Determination Body:**

The application is reported to the NSW Joint Regional Planning Panel (Northern Region) for determination pursuant to Clause 13C – Coastal Development of *State Environmental Planning Policy (Major Development) 2005*.

This Clause applies to development within the coastal zone for buildings and structures (other than minor alterations or additions to existing buildings or structures) that are greater than 13 metres in height, excluding any building that complies with all development standards relating to the height of such building set by a local environmental plan that applies to the land on which the building is located.

The proposed development is located within the coastal zone and incorporates a structure 18m in height (proposed power fan tower). Given that the development is not an alteration or addition to an existing structure the provisions of Clause 13C apply to the application. As such the determining authority for the development application is the NSW Joint Regional Planning Panel (Northern Region).

**Statutory Requirements:**

- **Section 79C Evaluation:**

Section 79C of the *Environmental Planning and Assessment 1979*, specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined.

The Section 79C evaluation is appended to this report and provides a detailed assessment of the application.

- **Relevant Statutory Instruments:**

- North Coast Regional Environmental Plan;
- State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy 71 – Coastal Protection;
- Coffs Harbour City Local Environmental Plan 2000;
- Rural Lands Development Control Plan;
- Notification Development Control Plan;
- Off Street Car Parking Development Control Plan;
- Access and Mobility Development Control Plan.

Each of these statutory instruments is considered in detail in the Section 79C assessment appended to this report.

**Issues:**

Recreation Facilities are permissible with development consent within land zoned Rural 1A Agriculture under the Coffs Harbour City Local Environmental Plan. The relevant objective of the zone is *“to provide for the preservation of existing or potentially productive agricultural land”*.

Given that the land is currently used for similar development types (i.e. recreational uses) the land is not considered to be productive agricultural land nor is it likely to be productive agricultural land in the future due to its association with the existing established recreational facilities. The proposal is ancillary to and incidental to the current site use.

**Summary:**

It is recommended that the proposed recreation facility be supported on the following grounds:

- The proposed development is permissible with development consent and is removed from areas with environmental constraints;
- The development proposal is ancillary and complementary to the existing development on the subject site;
- The proposed development will provide for additional onsite adventure activities for persons attending the youth training and camp facility.

**Recommendation:**

- 1. That Development Application 714/10 for a Recreation Facility at Lot 1 DP 1022247, Bonville Station Road, Bonville be approved subject to conditions appended to this report (Appendix B).**

**Section 79C Assessment**

***North Coast Regional Environmental Plan***

The proposal is considered to be consistent with the aims and objectives of the North Coast Regional Environmental Plan and does not contravene any of the controls within this instrument. The following is a discussion of the relevant controls.

*Clause 12 Impact of Development on Agricultural Activities*

Council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The subject land is zoned for agricultural purposes and is adjoined by land with a similar zone to the east, south and west. The site is currently being used for recreational purposes (youth training and camp facility). The expansion of the recreational use over the site on land zoned for agricultural purposes is considered appropriate given that this site is not currently productive agricultural land nor is it likely to be productive agricultural land in the future. As such additional recreational facilities may be appropriate given that the objectives of the zone are no longer relevant to the subject site.

*Clause 15 Wetland or Fisheries Habitat*

Council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream unless it has considered the prescribed matters.

The subject land has a small tributary off Bonville Creek running through the centre of the site. The application has been amended to ensure that the proposed development is not located within 40m of this watercourse. Therefore the development is not deemed to be integrated development pursuant to Section 91 of the *Environmental Planning and Act 1979*. The matters prescribed by this Clause have been considered. The recommended conditions of development consent will ensure that the proposal does not contravene the controls of this Clause.

*Clause 32B - Coastal Lands*

This clause applies to land within the region to which the NSW Coastal Policy 1997 applies. In determining an application for consent to carry out development on such land, Council must take into account: the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast: Design Guidelines. Council must not consent to the carrying out of development which would impede public access to the foreshore and must not consent to the carrying out of development on urban land in Coffs Harbour if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

Refer to discussion below in relation to consideration of the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast: Design Guidelines. The proposed development will not impede public access to foreshore areas or result in the overshadowing of any beaches or open space areas within the specified times.

#### *Clause 81 - Development Adjacent to the Ocean or a Waterway*

Council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that there is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development.

Buildings to be erected as part of the development are not to detract from the amenity of the waterway, and the development is to be consistent with the principles of any foreshore management plan applying to the area.

The proposal does not contravene the controls of this clause. Bonville Creek and associated riparian areas are removed from the location of the proposed for development. The proposed structures are unlikely to detract from the amenity of the waterway and are adequately separated from the creek.

#### *Clause 82 - sporting fields or specialised recreation facilities*

Council shall not grant consent to the development of sporting fields or other specialised recreational facilities unless it has considered the need for access by the community to the facilities and included relevant conditions in its approval to achieve an acceptable level of public access.

The existing facilities on the site currently provide acceptable access for members of the community. This is to remain unchanged. It is to be noted that this is a private recreation facility, not generally available to the public.

#### ***Coastal Policy, Coastal Protection Act and Regulation, Coastline Management Manual, North Coast Design Guidelines, Tourism Development***

The subject land is within the gazetted coastal policy zone, thus the proposal is subject to the provisions of the NSW Coastal Policy 1997, and the controls of the NSW Coastal Protection Act and Regulations. It should be noted in this instance that many of the controls are not relevant to the development due to the nature and location of the proposal. The matters that must be considered as part of the development assessment process have been taken into consideration. The proposed development does not contravene any of the controls specified in the above legislation, guidelines and policies.

#### *Tall Buildings:*

The proposed development is a structure and not a building therefore many of the provisions relating to larger development under the Coastal Policy 1997 are not relevant. The proposed 'powerfan' which is to be 18m in height is removed from any beaches and is therefore unlikely to result in any overshadowing impacts. The location of the proposed 'powerfan' is also removed from the adjoining Bonville Creek and National Park. Visual and physical impacts are expected to be minimal given the context of the site (i.e. rural area with adequate separation from the coastline and substantial screening from adjoining riparian areas and National Park).

#### ***State Environmental Planning Policy 71 – Coastal Protection***

The land is within the Coastal Policy zone therefore State Environmental Planning Policy 71 – Coastal Protection is relevant to the application. The land is not below mean high water mark and is not deemed to be 'Significant Coastal Development'. Concurrence is not required from the Department of Planning pursuant to Clause 11(2) of the Policy. The proposal does not require the Department of Planning to approve and/or waive the need to prepare a DCP for the site.



Council is required to consider Clause 8 Matters as specified by the Policy. The matters specified in Clause (8) of the Policy have been considered in the assessment of this application. The development does not contravene any of the specified matters.

The proposed development is suitable for the site and surrounding area. There are to be no impacts on the amenity of any coastal foreshore areas. The scenic qualities of the NSW coast are unlikely to be negatively impacted by the proposal. The proposal is highly unlikely to result in any impacts on threatened flora and fauna and their habitats; fish species, marine vegetation and their habitats; or existing wildlife corridors.

The recommended conditions of development consent will ensure that impacts on cultural places, values, customs, beliefs and traditional knowledge of Aboriginals are unlikely. Cumulative impacts of the proposed development on the environment; water and energy efficiency are also highly unlikely.

### ***State Environmental Planning Policy (Major Development) 2005***

This Policy applies to development within the coastal zone for buildings and structures (other than minor alterations or additions to existing buildings or structures) that are greater than 13 metres in height, excluding any building that complies with all development standards relating to the height of such building set by a local environmental plan that applies to the land on which the building is located.

The proposed development is located within the coastal zone and incorporates a structure 18m in height (proposed powerfan tower). Given that the development is not an alteration or addition to an existing structure the provisions of Clause 13C of *State Environmental Planning Policy (Major Development) 2005* apply to the application. As such the determining Authority for the development application is the NSW Joint Regional Planning Panel (Northern Region).

### ***Section 5A Environmental Planning and Assessment Act 1979***

The proposed development is to be located on land previously cleared and disturbed. Further the proposal does not involve the removal of any vegetation. It is therefore highly unlikely that the proposal will have a significant effect on threatened species, populations or ecological communities, or their habitats and/or require the preparation of a 7 part test pursuant to section 5A of the *Environmental Planning and Assessment Act 1979*.

### ***Coffs Harbour City Local Environmental Plan (LEP) 2000***

The land is zoned Rural 1A Agriculture and Environmental Protection 7A Habitat and Catchment. The development is to be located on the subject site within land zoned exclusively Rural 1A Agriculture. Recreation Facilities are permissible within this zone subject to development consent.

As mentioned previously the relevant objective of the zone is “to provide for the preservation of existing or potentially productive agricultural land”. The land is not considered to be productive agricultural land nor is it likely to be productive agricultural land in the future due to its association with the existing established recreational facilities on the site.

**Clause 11- Tree Preservation Order.** In accordance with this Clause, Coffs Harbour City Council's Tree Preservation Order applies to all Australian native vegetation on land within zone 1A east of the (former) Pacific Highway on land greater than 1ha and within all environmental protection zones. The application does not seek to remove any vegetation from the site protected by the Order.

**Clause 12 – Koala Habitat.** Primary and Secondary Koala Habitat is identified on the subject site. The proposed development is to be located within land mapped as Primary Koala Habitat. Clause (12) of LEP 2000 is therefore relevant to the application, which provides that consent shall not be granted to development unless the development consent is in accordance with a Koala Plan of Management (KPOM).

The Coffs Harbour City KPOM 1999 states that the consent authority shall not grant consent to the carrying out of development on areas identified as Primary Koala Habitat, whether zoned 7(A) or otherwise, which will remove any of the tree species specified in the KPOM, unless the development will not destroy, damage or compromise the values of the land as koala habitat.

In assessing an application the consent authority shall take into consideration the matters specified in the KPOM and advice from the NPWS (DECCW) should be sought when any development proposals within areas defined as Primary Koala Habitat are considered.

The application has not been referred to DECCW for advice given that the koala habitat mapping is erroneous and the land to be developed is currently cleared and devoid of vegetation (including koala food tree species). The proposed development is unlikely to destroy, damage, or compromise the values of the land as koala habitat. The riparian areas along Bonville Creek which are likely to contain koala habitat are to remain untouched and therefore retain habitat values for koala habitat.

**Clause 13 – Landform Modification.** The recommended conditions of development consent require sediment and erosion control measures to ensure that there is no impact from soil erosion or sedimentation associated with construction works on adjoining watercourses. The controls of this Clause are not contravened by the proposed development.

#### **Clause 23 – Potential Acid Sulfate Soils/Bush Fire Hazard**

*Acid Sulfate Soils:* the land is mapped as having potential Acid Sulfate Soils (ASS) Class 3 and a high risk of ASS occurring. Given that the proposal involves minimal earthworks it is highly unlikely that the proposal will result in any impacts on ASS and/or lower the water table. No specific conditions or actions are required in relation to this matter.

*Bush Fire Hazard:* the subject site has been mapped as being bush fire prone land. Given that the development does not propose any form of residential housing and/or subdivision, the application has not been referred to the NSW Rural Fire Service. However in accordance with Section 79BA of the EP&A Act 1979, the following assessment has been undertaken:

- **Protection from Exposure:** the structure is to be located within a cleared area removed from any vegetation.
- **Defendable Space:** Sufficient space is provided between the proposed development and the bush fire hazard to the north.
- **Access and Egress:** Adequate access will be afforded to pedestrians and vehicles for fire fighting purposes. Large areas of maintained grass will enable maneuvering of large vehicles for fire fighting purposes.
- **Management & Maintenance of Asset Protection Zone's:** Sufficient Asset Protection Zones will be provided to the proposed development via maintained grassed areas.
- **Utility Services:** The proposed development is for minor recreational structures to be used for short term activities and does not incorporate any form of accommodation. The requirement for onsite utility services is not required.

In light of the above assessment, it can be concluded that the proposed development does not pose a bush fire risk and thus does not contravene the controls of this Clause.

*Flood Prone Land:* the land is classified as being flood prone land. The application is for the construction of minor structures to be used for short duration recreational pursuits and does not

incorporate any overnight accommodation. In light of this flooding is not considered to be an impediment to the proposal or warrant any specific conditions in relation to flood mitigation.

***Draft Regional Environmental Plans, draft State Environmental Planning Policies, draft Local Environmental Plans***

There are no draft plans of relevance to this application.

***Development Control Plans and draft DCPs***

*Rural Lands Development Control Plan*

This Plan relates to rural/agriculture activities, rural housing and subdivision. The specific controls of this Policy are not relevant to this application given that the proposal is for a recreation facility. It should be noted that the proposed land use is permissible within the zone with development consent. As such this type of development within a rural zone is assessed on merit.

*Access and Mobility Development Control Plan*

The recommended conditions of development consent require access to the facility for people with a disability.

*Off Street Car Parking Development Control Plan*

The controls of this Policy specify certain types of recreation facilities that require set car parking rates. The proposed recreation facility is not specified in the Policy. A car parking study is not required given that no additional student or visitor numbers are expected to utilise the facility. The proposed development is ancillary to an existing youth training and camp facility. Sufficient car parking is currently provided on site. The controls of this Policy are not contravened by the proposed development.

*Notification Development Control Plan*

The application has been notified to adjoining landowners for a period of 14 days in accordance with this Policy. It should also be noted that the application has been notified in accordance with the operational procedures of the NSW Joint Regional Planning Panel.

***What is the likely impact of the development, including environmental impacts on both the natural and built environment and social and economic impacts in the locality***

**The natural and built environment**

The land use is ancillary to the existing development on the site. It is unlikely that the proposal will impact on archaeological objects of Aboriginal origin. The Local Aboriginal Land Council is sent regular lists of Development Applications lodged with Council, for which they then register their interest with Council. No issues were raised in relation to this application. The recommended conditions of development consent also impose specific actions for the proponent if such objects are discovered on the site during construction works.

The proposed development is to be located on land previously cleared and disturbed. Further the proposal does not involve the removal of any vegetation. It is therefore highly unlikely that the proposal will have a significant effect on threatened species, populations or ecological communities, or their habitats.

The proposed development does not pose a bush fire or flooding risk. Further the proposal is unlikely to impact on valuable land resources given the current use of the site and is also unlikely to have an impact on ASS. There are no technological hazards or cumulative issues of note.

### **Social and economic impacts on the locality**

The proposed development is not expected to result in any significant adverse social or economic impacts in the locality. The proposal will result in beneficial outcomes for users of the existing youth training and camp facility. Often such users are from disadvantaged groups and as such the additional facilities are seen as a bonus. Due to the proposed location of the new facilities it is unlikely that any negative impacts would result for adjoining/neighbouring land owners in the locality.

#### ***The suitability of the site***

The land is currently used as a recreation facility (youth training and camp facility). The application is to extend the use over the site. Given the isolated nature of the site, location of the structures, and adequate screening, the proposal is considered to be suitable for the site.

#### ***Any submissions made in accordance with the Act or the regulations***

The application has been notified in accordance with Council's Notification DCP. One submission has been made (from the NSW Roads and Traffic Authority) in which no objections are raised in relation to the proposed development.

#### ***The public interest***

The public will not be adversely impacted by the proposed development. The proposal is of benefit to various users of the facility. The application has been evaluated in accordance with proper process.

### Proposed Conditions of Development Consent

#### Prescribed Conditions:

1. The proponent shall comply with the prescribed conditions of development approval under Clauses 97A, 98, 98A - E of Environmental Planning and Assessment Regulation 2000 as are of relevance to this development.

#### Development is to be in accordance with approved plans:

2. The development is to be implemented in accordance with the plans set out in the following table except where modified by any conditions of this consent (Development Consent No. 714/10).

Plan No. / Supporting Document(s)	Dated
Site Plan P06, prepared by Vertical Innovations	January 2010
Plans P01, P02, P03, P04, P05, prepared by Vertical Innovations	January 2010

In the event of any inconsistency between conditions of this development consent and the plans referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

#### Additional Details or Applications:

3. Work on any building must not commence until such time as a Construction Certificate has been obtained.

#### Sediment & Erosion Control:

4. Where excavation works or removal of vegetation is to take place on the site, control measures in accordance with Council's Erosion & Sediment Control Policy and Practice for Building & Development Sites to prevent the erosion of soil are to be undertaken at each appropriate construction stage.

#### Disability Access and Facilities:

5. Access to the facility for disabled persons being provided as part of the development. The developers attention is drawn to the provisions of the *Disability Discrimination Act 1992*.

#### Construction:

6. Construction works are to be limited to the following hours:

Monday to Friday	7.00 a.m. - 6.00 p.m.
Saturday	7.00 a.m. - 1.00 p.m. if inaudible from adjoining residential properties, otherwise 8.00 a.m. - 1.00 p.m.

No construction work is to take place on Sunday and Public Holidays.

**Signage:**

7. A sign indicating the name, address and telephone number of the Principal Certifying Authority, and the name and telephone number of the principal contractor (if any) must be erected in a prominent position on the site and maintained until the building work has been completed. The sign must also state that unauthorised entry to the site is prohibited. The signage must be erected prior to commencement of work.

**Aboriginal Cultural Heritage:**

8. Should any aboriginal relics or artefacts be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the NPWS (DECCW) shall be informed in accordance with Section 91 of the National Parks & Wildlife Act 1974.

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