

APPENDIX D. ARG CHARTER AND MEETING MINUTES.



Notes from Aboriginal Reference Group Meeting - Tuesday, 22 April 2008

Coolangatta Tweed Heads Golf Club
Soorley Street, South Tweed

Attendees:

Project Team:

Developers of Lot 490 (Leighton Properties): **Brian ten Brinke (BtB)**; **Cameron Binney (CB)**.
Community Engagement Consultants (PB): **Cath Singleton (CS)**.
Meeting Facilitator (PB): **Bernie Jefferies (BJ)**.

ARG Members:

Clarence Phillips (CP), Tweed Byron Local Aboriginal Land Council; **Paul Dodd (PD)**, Eat It Wild organisation; **Jacky McDonald (JM)**, Traditional Owner; **Russell Logan (RL)**, Tweed Byron Local Aboriginal Land Council.

Apologies:

Joy Summers, Individual; **Lesley Mye**, Tweed Shire Council Aboriginal Advisory Committee.

Absent:

Harry Boyd, Ngarakwal Nganduwal

Please note: The Aboriginal Reference Group (ARG) for the proposed Kingscliff Resort Development has been established to act as a two-way communication link between the project team and the Aboriginal community to discuss employment opportunities in line with the Aboriginal Participation in Construction Plan. It is a forum for discussion and the exchange of information regarding opportunities for employment, recognition of existing skills and identification of future training opportunities for local Indigenous communities. The ARG is not a decision making body.

Welcome and Introductions

The project team welcomed the ARG members, introduced project team and acknowledged traditional owners. The ARG agenda was outlined to the group and included:

- Project History
- Native Title
- Cultural Heritage
- Aboriginal Participation in Construction (APIC)
- Community Facilities

Project History

The project team presented information on the history of the site including the Steering Committee and the Lot 490 Plan of Management. Leighton Properties was the successful tenderer and has signed a 70 year lease to build a resort and manage the environmental rehabilitation of Lot 490 (including parts of Lots 489 and 500).

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Native Title status

BJ outlined the following information provided by the Department of Lands:

- Lot 490 Native Title extinguished via means of appropriation in 1988.
- Lot 489 / 500 Native Title not extinguished and Notification of Public Works has been made by the Department of Lands to NTS Corp under Subdivision K, Subsection 24KA under Native Title Act 1993.
- A copy of the Tenure History of Lot 490 and a copy of the Subsection 24KA Notification letter to NTS were provided to JM.

Cultural Heritage status

The project team indicated that Leighton Properties has engaged Everick Heritage Consultants to undertake an archaeological assessment of Lot 490 and part of Lots 489 and 500.

The scope of works includes consultation with the Tweed Byron Local Aboriginal Land Council and other prominent traditional owners.

An ARG member indicated that they were satisfied with the heritage consultant engaged.

Aboriginal Participation in Construction (APIC)

Parsons Brinckerhoff will be completing a report based upon the APIC Guidelines at the end of the ARG participation time. An APIC is normally produced by a Contractor working on a Government Project in NSW, however there is an opportunity to improve on the process early in the development.

The purpose of an APIC plan is to perform the following:

- Consultation with the local Aboriginal community.
- Identification of opportunities in the supply chain.
- Create a Contractor's action and resource plan (APIC).
- Contractor to report actions as per APIC.

The ARG provides an opportunity to:

- Acknowledge now anticipated skills needed during the Design, Construction and Operations phases of the development.
- Create a database of existing Aboriginal skills in area.
- Identify any training opportunities.
- Convey these packages of information to the Designers, Contractors and Operators of the development.

TBLALC is to do an audit of skills in the area including trade persons, suppliers and businesses already supporting Aboriginal employment and any potential training needs. Rick Nolan from Employment Plus was identified as a contact for a list of unemployed people.

An ARG member stated that this was good but two years down the track at construction time, this list may be out of date. TBLALC indicated they have a list of employers that they have contacted that regularly employ trainees or encourage or already have an Aboriginal workforce.

Other Business

Harry Boyd (Ngarakwal Nganduwal) was absent from the meeting. He had been accepted on the ARG by PB on the basis of interest for involvement in the project. However, the direction given to PB by the Department of Aboriginal Affairs (DAA) was to refer membership approval to the TBLALC.

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Out of respect for the DAA & TBLALC, Leighton Properties and PB agreed to send a letter to the nominated person advising the need for them to contact TBLALC regarding their future involvement in the ARG. Copies of the letter will be sent to Leighton Properties, DAA and DoL.

Paul Dodd, a representative of the WICEEDO company, presented the commercial in confidence 'Eat it Wild' proposal that could exist within Lot 489 or Lot 490.

A group discussion was held about the enterprise proposal and it was identified that the Traditional Owners would be stakeholders and would need to be consulted. Paul Dodd indicated he was happy to present the proposal as a possible venture to this group.

BtB indicated that he would like Paul Dodd to present to the next CRG meeting as the proposal is supported by strong social, economic and environmental sustainability concepts. The CRG can be canvassed for their level of interest and a discussion can be held regarding the amalgamation of some of the LPPL proposed Community Facilities and funding.

BtB noted that leasing of the land is between Department of Lands and WICEEDO.

Next Meeting

Next Meeting: 12.30pm, 10 June 2008 at Tweed Heads Golf Course.

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Notes from Aboriginal Reference Group Meeting 2

- Tuesday, 10th June 2008

Coolangatta Tweed Heads Golf Club
Soorley Street, South Tweed

Attendees:

Project Team:

Developers of Lot 490 (Leighton Properties): **Brian ten Brinke (BtB)**; **Cameron Binney (CB)**
Meeting Facilitator (PB): **Bernie Jefferies (BJ)**.

ARG Members:

Paul Dodd (PD), Eat It Wild organisation; **Russell Logan (RL)**, Tweed Byron Local Aboriginal Land Council; **Glenda Nalder (GN)** (Individual).

Department of Aboriginal Affairs:

Tracy Singleton (TS) Regional Project (Officer); **Jonathan Wassell (JW)**; **Executive Director of Business Strategy**.

Invited others:

Rick Nolan (RN) Indigenous Employment Consultant, Employment Plus; **Debbie Pearce (DP)**, Employment Consultant, Employment Plus.

Apologies:

Joy Summers, Individual; **Lesley Mye**, Tweed Shire Council Aboriginal Advisory Committee;
Jacky McDonald (JM), Traditional Owner; **Clarence Phillips (CP)**, Tweed Byron Local Aboriginal Land Council.

Please note: The Aboriginal Reference Group (ARG) for the proposed Kingscliff Resort Development has been established to act as a two-way communication link between the project team and the Aboriginal community to discuss employment opportunities in line with the Aboriginal Participation Plan. It is a forum for discussion and the exchange of information regarding opportunities for employment, recognition of existing skills and identification of future training opportunities for local Indigenous communities. The ARG is not a decision making body.

Pre meeting - Documentary Discussion and Participation Approval

Leighton Properties, as the developer of the Kingscliff Resort development, is wishing to produce a documentary to record the history of their involvement with the Lot 490 site.

The documentary is intended to include:

- A brief introduction regarding the NSW Department of Land's (DOL) process to arrive at Leighton Properties' appointment as developers of the site;
- A record of the community engagement process (including CRG and ARG meetings, public displays and stakeholder meetings);
- Interviews with key consultants such as the architect and environmental consultants;
- Interviews with stakeholders such as DOL and Council representatives;
- Interviews with interested community members and/or organisations; and

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- A record of what makes the site so special (i.e. Cudgen Creek, vegetation, dune system, beach etc).

The end use of the documentary will be to accompany the developer's Development Application along with the Community Engagement Report, Community Benefits Plan and the Aboriginal Participation Plan. It is envisaged that the documentary may also be used (pending development approval) in the sales office to show prospective resort property purchasers the 'history' of the site.

LP arranged three members of the documentary crew to be present at ARG meeting on the understanding that camera persons would be 'roaming' the room and would not interfere with the meeting process nor will they be directly interviewing any ARG members at this point in time. The crew will be recording the ARG meetings as part of the footage for the documentary only.

It was tabled that talent release forms will need to be signed as ARG members would not be receiving payment for any appearance in the documentary.

The ARG was invited to voice any issues associated with the presence of the camera persons, in particular any culturally specific protocols or objections on participating in the filming and audio recording of the ARG meeting.

Only one objection was received in regard to being filmed. This was noted to the camera persons and the person was not filmed, until a point in time in the meeting where agreement was offered by that individual to be included in filming.

Official meeting commencement

1. Welcome and Introductions

The project team welcomed the ARG members, introduced the project team and acknowledged traditional owners, new ARG members and representatives from DAA and Employment Plus. The ARG agenda was outlined to the group and included:

- Welcoming and housekeeping
- Employment and training
 - Progress on database
 - Enterprise opportunities
 - Feedback on the Eat it Wild concept as presented at the CRG meeting
- Draft Structure of the Aboriginal Participation Plan (APP) Report
 - Bernie to outline of draft structure of the APP report
- Other business
 - DAA/LP meeting discussion / report on outcomes of meeting
 - Cultural Heritage – Meeting held between consultants and TBLALC
- Conclusion

Minute Silence in respect

An ARG member requested the ARG to pay respects in acknowledgement of the passing away of a community member on this day. One minute silence was undertaken and following this a brief discussion was had of the community member's contribution to a range of Aboriginal interests in the Tweed area.

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2. ARG #1 Meeting Notes

BJ asked ARG members if ARG meeting 1 notes (as circulated to members) were accepted as a fair account of the discussions had. No issues were noted. BJ offered to receive any requests for amendment to ARG meeting 1 notes.

Discussion was had regarding the status of an action of the last ARG meeting to forward correspondence to Ngarakwal Nganduwal. BJ indicated the correspondence had been sent with copies to DoL, DAA and TBLALC. No response had been received from any parties.

3. Project Background

For the benefit of new members and representatives of DAA and Employment Plus, BtB outlined the background to the project and provided information about the development of the Lot 490 site. Discussion included the Plan of Management, acceptance by DoL of the LP tender for the development rights to develop the land in accordance with the Plan of Management, leasing rights, the consultation process, the Aboriginal Participation Plan and the Aboriginal Participation in Construction Plan, project timing, development approval and construction commencement scheduled for the end of 2009 / 2010.

A new ARG member asked about the status of Native Title over the site. BJ and BtB outlined the following information as provided by the Department of Lands:

- Lot 490 Native Title extinguished via means of appropriation in 1988.
- Lot 489 / 500 Native Title not extinguished and Notification of Public Works has been made by the Department of Lands to NTS Corp under Subdivision K, Subsection 24KA under Native Title Act 1993.
- A copy of the Tenure History of Lot 490 and a copy of the Subsection 24KA Notification letter to NTS were provided to JM at ARG meeting 1.

4. Employment and Training

ARG members discussed the validity of providing a database list of unemployed people and a skills audit for the APP at this point in time, due to the timing of when any potential candidates for employment may be available. These members noted the issue of currency of the data due to the status of people changing daily. It would also help if training needs could be known as early as possible so as the relevant training could be arranged through assistance programs.

An ARG member identified an existing excavation contractor who has existing Aboriginal employees and training programs operating for employees. There are a number of Ad-hoc Aboriginal operators from all trades within the region. There is an Aboriginal builders list on the NSW AHO website.

An ARG member indicated that two groups of skills information can be developed, one with existing tradesmen and a second with unemployed interested in construction related industries. The issue of the currency of data will need to be reviewed and followed up prior to construction.

4.1 Job Compacts

A DAA member identified that the Tweed area is developing a Job Compact agreement. The DAA member provided BtB with an information pack about Job Compact. The Lot 490 development was identified by DAA as potentially relevant for the Job Compact. Job Compact is about providing Aboriginal people access to the workforce. Job compact is location specific and the Tweed region Job Compact is in its early days. It is an agreement between employers, training networks, State and Local governments, Aboriginal organisations and other stakeholders.

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Discussion was had on what are the benefits and motivations for business to get involved with Job Compacts. An ARG member discussed the point of value of cultural involvement in commercial process that Aboriginal people should expect to be included.

An ARG member indicated that the underlying meaning of APIC to Aboriginal people is cultural acknowledgement, enhancing social and economic opportunity, enhancing social benefits, recognition and a level playing field.

BtB inquired as to how to get construction and cultural inputs into the project and he also asked about the benefits to Developers of APIC. Discussion was had on available employment and training subsidies.

An ARG representative stated that often construction companies were not interested in engaging group training companies for Job Network employment initiatives and often set up their own Aboriginal employment procurement process.

BtB inquired as to whether the Kingscliff Resort construction phase could employ the Job Compact process and if tradesman and companies would be able to register.

Discussion was had about making it a requirement for tenderers for the Kingscliff Resort construction contract/s to sign up to Job Compact.

An ARG member inquired whether there would be an Aboriginal community "sign off" generally on the APIC.

Discussion was had as to how the skills audit data will be advanced and implemented beyond the consultation phase, given the issue of currency of the data, the desire by the developers to not have to repeat consultation with TBLALC to update data and how the Job compact process maybe related to this.

It was acknowledged that there is a need to clarify the process for the employment, skills and tradesperson data to be provided to LP in order to be advanced into the construction phase. This is imperative to achieving the desired objectives for Aboriginal employment.

4.2 Aboriginal artists / landscape designers on Integrated Design projects

An ARG member discussed the availability of a database of Aboriginal artists / landscape designers with experience in working with developments in landscape and design. The members also spoke about Aboriginal dimensions including traditional and contemporary landscapes themes to be integrated into the built environment. It was stated that this is a different concept than Aboriginal Art in design like murals or pictures to hang on walls or artefacts in show cases. The ARG member reported that the Aboriginal community has a team of preferred professional anthropologists, archaeologists, cultural heritage experts, artists, film-makers, CAD designers, DVD producers, landscape designers and other arts and cultural workers with good track records and a process for organising the commission of contracted work for these professionals.

BtB indicated that LP already have engaged a landscape design team however LP may be interested in offering a peer review of existing landscape work. The ARG member indicated the need for inclusion of Aboriginal community artists and designers early in the design process for the eco-resort on Lot 490.

The ARG member spoke of the potential for Aboriginal art to be included as features in the public space as well as the resort area.

BtB identified the potential for a workshop with the ARG member and associated artists for the interpretative centre for work prospects and integrated design elements. The ARG member indicated the process is to call for expression of interest from the Aboriginal arts community, then to workshop what is required including participation with fees.

The ARG member offered to initiate process to LP on information about Aboriginal community artists and designer's process for working with developers on integrated design projects.

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4.3 Eat it Wild Presentation

Discussion was had regarding PD's presentation at the CRG meeting of Eat it Wild concept. PD said feedback was generally good with CRG members showing more interest in the details that are yet to be developed for the initiative than the overall concept and business model. BtB indicated it was not picked up as enthusiastically as wished as there was concern from a member of the CRG that the Eat it Wild concept was not a community facility. It was discussed that the feedback possibly reflects the CRG could be more concerned about individual interests.

BtB suggested having PD provide the presentation at a public venue, potentially a hall in Kingscliff, with a static display on Eat it Wild. PD is to develop a flow chart / conceptual model that will illustrate the community capital aspect of the Eat it Wild proposal. PD discussed the potential for an ILUA (Indigenous Land Use Agreement) associated with any potential Eat it Wild site. RL stated Eat it Wild needed to sell the idea to the Aboriginal community so as not to lose the opportunities potentially available.

5. Draft Structure of Report

BtB discussed the draft APP structure. A copy of the draft structure was provided to all ARG members. The main areas of discussion were on the Aboriginal employment process and how the employment skills information is proposed to be included as part of the construction tendering phase. Agreement was made that a process had to be developed to give all parties certainty that the outcomes of the ARG consultation process and the APP have an optimal opportunity to achieve the desired objectives through the APIC.

Discussion was had on the tendering phase for construction. It was agreed that it was imperative to include as part of the construction contract specification a performance requirement for the winning contractor to develop an APIC and implement a range of obligations in relation to Aboriginal employment, training and recruitment. BtB suggested LP does not set KPI's at the tendering phase. BtB is interested in contractors responding to the APIC performance criteria. Discussion was had on the APIC targets expected by DoL and DAA and the lack of legislative requirement or guidelines to assist in reporting performance. It was noted that a number of major construction contractors have Aboriginal employment initiatives as part of their voluntary corporate social sustainability and community benefit programs.

BtB discussed LP's position of the responsibility of reporting requirements on the implementation of the APIC to be transferred to the construction contractor. PD stated the State of NSW would be expecting that LP would still be in the reporting process between the contractor and DoL.

There is a need to clarify a number of issues associated with the APIC process. These issues include difficulties where the requirement for the APIC rests with the Developer (LP) and the implementation of APIC is primarily applied by the contractor in the construction phase. The APP implementation plan is to be further discussed at the next ARG meeting.

6. Other Business

Discussion was had regarding the meeting between DoL and LP. Outcomes of this meeting were the agreement that the APIC process is not easy for the developer to implement at this stage of the project and it is more aimed at construction contractors. Other outcomes were that LP is to develop a process for the APIC requirements to be part of the construction tender process for the Kingscliff Development. The DAA will be signing off on the APIC on behalf of the State.

A discussion was had on the status of a meeting between Everick Heritage Consultants and TBLALC regarding the cultural heritage assessment of Lot 490 and part of Lots 489 and 500. Due to Clarence Phillips inability to attend the meeting, there was no confirmation of the meeting or any outcomes. CB is to follow up on the status of the cultural heritage assessment process and report any information at the next meeting.

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7. Next Meeting

Next Meeting: 12.30pm, 29 July 2008 at Tweed Heads Golf Club.

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Notes from Aboriginal Reference Group Meeting 3

Tuesday, 29th July 2008

Coolangatta Tweed Heads Golf Club
Soorley Street, South Tweed

Attendees:

Project Team:

Developers of Lot 490 (Leighton Properties): **Brian ten Brinke (BtB)**; **Cameron Binney (CB)**.
Meeting Facilitator (PB): **Bernie Jefferies (BJ)**.
Department of Lands (DoL): **Phil Fogarty (PF)**.

ARG Members:

Lesley Mye (LM), Tweed Shire Council Aboriginal Advisory Committee; **Jacky McDonald (JM)**, Traditional Owner; **Glenda Nalder (GN)**, Individual; **Chris App (CA)**, Tweed Byron Local Aboriginal Land Council; **Kyle Slabb (KS)**, Tweed Byron Local Aboriginal Land Council.

Department of Aboriginal Affairs:

Tracy Singleton (TS), Regional Project (Officer); **Gary Oliver (GO)**

Invited others:

Rick Nolan (RN) Indigenous Employment Consultant, Employment Plus;
Debbie Mis-Camble (DMC), National Manager of Business Development, Employment Plus.

Apologies:

Paul Dodd (PD), Eat It Wild organisation; **Russell Logan (RL)**, Tweed Byron Local Aboriginal Land Council; **Joy Summers (JS)**, Individual; **Clarence Phillips (CP)**, Tweed Byron Local Aboriginal Land Council.

Other:

Please also note that a privately employed documentary camera crew and photographer were present to document the meeting.

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Pre meeting - Documentary Discussion and Participation Approval

As outlined in the ARG meeting 2 notes, a documentary film crew were present during the meeting. It is to be noted that a number of the ARG meeting attendees did not give their consent to appear in the documentary.

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Official meeting commencement

Welcome and Introductions

The project team welcomed the ARG members, introduced project team and acknowledged traditional owners, new ARG members and representatives from DAA and Employment Plus. The ARG agenda was outlined to the group which included:

- Welcoming and housekeeping
- Employment, training and skills database
 - progress on employment and training and skills database
 - progress on existing tradesmen and business
 - progress on enterprise opportunities
- Tweed Job Compacts
- APP/APIC Implementation
- Master Plan discussion
- Other business
 - Aboriginal Integrated Design Initiative - update on progress and status
 - Cultural Heritage Report Update
 - Next steps for development (DA process and timing) and ongoing community contact/information sharing
 - PB: Next step? Ongoing contact with LP/Project Team
- Conclusion

ARG #2 Meeting Notes

BJ asked ARG members if ARG meeting 2 notes (as circulated to members) were accepted as a fair account of the discussions had. No issues noted. BJ offered to receive any requests for amendment to ARG meeting 2 notes.

Employment, training and skills database

An Employment Plus (EP) member reaffirmed that the employment database is more appropriate further down the development track as the status of potential employees changes daily and the list can be generated in a timely manner. The EP member also mentioned that they are speaking with the local Tafe to identify upcoming opportunities which will be generated as a result of the Kingscliff Resort development. LP, EP and the Tweed Byron Local Aboriginal Land Council (TBLALC) will continue to develop their relationship through the Aboriginal Participation Plan and throughout the development process to ensure Aboriginal employment opportunities are encouraged.

The EP member agreed to provide PB with words for the Aboriginal Participation Plan outlining how EP can help employment opportunities associated with the development. Whilst it is a good idea for potential employees to be skilled up for roles within the resort development, if these people do not find work within the resort there will be many other employment opportunities outside of the resort.

A TBLALC member was to talk to the Land Council board about businesses that currently provide aboriginal employment and will pass on any appropriate names to PB and LP. It was identified that after the commencement of the Job Compact that this list will be superseded.



An ARG member identified that cultural awareness is an important element which must be understood by potential employers to ensure the best relationship between employees and employers.

An ARG member identified that they had concerns about how the Eat it Wild proposal will impact upon native title on the site. Another ARG member stated that a 1998 update to the Native Title Act 1993 states that the development of land for public facilities extinguishes native. Members stated that they do not want the Eat it Wild proposal to impinge on native title over the site. It was stated that a development such as the Eat it Wild concept on crown land would require Native Title clearance processes, such as an Indigenous Land Use Agreement.

BtB asked if anyone is intending to submit a native title claim over Lots 489 and 500. An ARG member stated that a group of people are preparing all the necessary information to lodge a native title claim, which includes Lots 489 and 500. PF reiterated that the Department of Lands believes that native title has been extinguished on Lot 490. A CRG member asked if the construction of community facilities would extinguish native title within the facilities footprint. The answer to this question was unknown by the people present in the meeting.

Job Compacts and APP/APIC Implementation

BtB outlined his experience at the Job Compact Breakfast held in Tweed on Tuesday 8 July. People who attended the meeting agreed that the Job Compact will make the implementation of the Aboriginal Participation Plan a much smoother process by identifying businesses and corporations who use Aboriginal Employees.

GO from the DAA outlined the process of implementing the Tweed Shire Job Compact which will commence in September 2008.

As part of the implementation of the APP / APIC, BtB identified the potential idea that contractors tendering for the Kingscliff Resort Development be required to be members of the Tweed Job Compact. BtB also identified the potential for a pre-tender seminar with the potential contractors interested in the development to discuss Aboriginal employment opportunities. Within this seminar topics such as cultural awareness could be discussed.

BtB stated that as part of the APP he does not intend to provide KPIs which require the employment of a specific number of Aboriginals as it is not commercially feasible.

Aboriginal artists / landscape designers on Integrated Design projects

Further to the discussion about Aboriginal artists and professionals in the last ARG meeting, an ARG member raised public art and place making opportunities within the resort and the surrounds. The member stated that she can provided examples of work which would be appropriate for the development. BtB stated that the possibility for using Aboriginals professionals is one he would like to investigate as a value add to the project. The ARG members discussed the idea and remarked that the most appropriate way to move the idea forward was to hold a BBQ with members of the Aboriginal community to discuss the architectural and visual elements of the resort. The ARG member stated that they would put a process to LP outlining how to progress the idea.

Cultural Heritage Report Update

CB reported that Everick Heritage Consultants had a meeting with the Sites Officer from the Tweed Byron Local Aboriginal Land Council regarding the draft Cultural Heritage Report. The draft report has not identified any areas or items of confirmed Indigenous or non Indigenous cultural heritage on the site. Everick is awaiting a response to the draft report from the TBLALC Sites Officer.



Revised Master Plan

The project team explained that as a result of community feedback received to date, LP had revised the master plan to provide two master plan options to be tabled for discussion.

The differences between the two plans were highlighted (refer to the ARG Meeting PowerPoint presentation for detail).

How does the Development Approval (DA) process work?

A discussion was held around the process for the Development Application and the following was outlined:

- The outcomes of community consultation will be used to refine the Master Plan
- The DA will be prepared and then submitted to the Department of Planning with consent from the Department of Lands
- The DA will be publicly advertised and exhibited
- The DA is assessed by the Minister for Planning under the State Environmental Planning Policy for Major Projects.

Next meeting

The final ARG meeting is now complete. No further meetings are scheduled.

