

## LATE ADDENDUM REPORT

**7a [DS] Development Application DA02/1685 for Proposed Industrial Subdivision and Associated Boundary Adjustments and Works at Lots 1 and 2 DP 1051874, Lot 1 DP 232745, Lot 10 DP 258122, Lot 2 DP 591194, Lot 1 DP 846151 and Crown Public Road, Wardrop Valley**

**ORIGIN:**

**Development Assessment Unit**

**FILE NO: DA02/1685 Pt4**

**SUMMARY OF REPORT:**

This is a Development Application submitted pursuant to SEPP 1 – Development Standards for subdivision of the subject land to ultimately provide 46 new industrial Lots, 4 infrastructure Lots and 6 residue Lots. The proposal includes substantial construction and earthworks, including 1.5 million cubic metres of cut and fill. Bulk earthworks proposed include cuts up to 19 metres deep and fills to 14 metres deep. The proposal requires construction of subdivisional roads and drainage, external road works and works at the Murwillumbah pistol club to ensure that the club can continue operating when the development proceeds.

The site of the proposed industrial subdivision is primarily within the Industrial 4(a) Zone under Tweed LEP 2000. The subject land contains a total of 337.4 hectares in all. The proposed industrial subdivision covers an area of approximately 55 hectares. The site is located in a quiet rural/ rural residential area and has frontage to Wardrop Valley Road. Parts of the proposed larger rural residue lots are Class 3 Agricultural land. Parts of the proposed subdivision are within Class 2 and Class 3 Acid Sulfate Soils areas. Areas of high, moderately high and medium groundwater sensitivity affect the site. Low-lying parts of the site are subject to flooding. Parts of the site are Bush fire prone lands.

The application evaluation process raised many significant issues, including acid sulfate soils, geotechnics, fill stability, noise, visual impact, traffic impacts, ecology, cumulative impacts and resident objections. Two public exhibitions and one community meeting were held during the process. Council commissioned specialist ecological and geotechnical advice to assist in the evaluation of the application. Various changes were made to the application during the process.

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The evaluation has had to balance the environmental changes and impacts on existing residents living in a quiet rural area with the wider public interest of establishing a needed supply of industrial land on a site that has been zoned for that purpose for many years. The most significant impact of the project on local residents is the impact of construction noise. Increased traffic and changes to neighbourhood amenity are also significant. Visual impact issues are significant as the site is located in an identified area of very high visual quality.

All relevant issues are evaluated in the following report. Conditional deferred commencement consent is recommended.

### RECOMMENDATION:

That :-

1. Development Application DA02/1685 for proposed industrial subdivision and associated boundary adjustments and works at Lots 1 and 2 DP 1051874, Lot 1 DP 232745, Lot 10 DP 258122, Lot 2 DP 591194, Lot 1 DP 846151 and Crown Public Road, Wardrop Valley Road, South Murwillumbah, be granted "Deferred Commencement" consent subject to the following conditions: -

#### **"DEFERRED COMMENCEMENT"**

**This consent shall not operate** until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

#### **SCHEDULE "A"**

**Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.**

- A. The Engineering Plans and specifications to accompany the Construction Certificate application shall comply with the requirements of Councils Development Design Specification D6 - Site Regrading (D6) adopted June 2002.

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Specific requirements to be addressed shall include:-

The design levels of lots and adjoining roads identified on Plan No's. A1-111-5 to A1-111-7 and A1-111-13 prepared by Richard Harry Engineers are unsatisfactory. The vertical alignment of the roads and allotments is to be redesigned to minimise the level difference between industrial land and adjoining roads. Level differences must not exceed those tabled in Development Design Specification - Site Regrading (adopted 5 June 2002) in particular table D6.1

All batters, catch drains, toe drains and retaining walls shall be wholly located within private property.

Provide catch drains above and at the toe of all batters to collect and transport waters to an approved point of discharge

All batters adjacent to the road reserve, steeper than 1:4 and greater than 1m in height below the road shall incorporate safety fencing / rails

Toe drains are to be provided along the base of all batters greater than 1m in height and wholly located within private land. Toe drains are to be designed to cater for the Q100 rainfall event and extend to a legal point of discharge.

### B. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising

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landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices, which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) All storm waters shall be directed to a constructed wetland to manage water quality prior to discharge to any natural watercourse.
- (d) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (e) Specific requirements

Permanent stormwater quality treatment shall provided and sized in accordance with Development Design Specification D7, in particular section D7.11-2.2 and Table 7.11-WS.

In this regard deficiencies identified on Plan No.A1-111-03 prepared by Richard Harry Engineering dated July 2003 are inadequate. Redesign of devices is required which may result in reserve area requirements in excess of those identified and result in a decrease in area of proposed industrial lots. Design of structured wetlands are to be in accordance with Development Design Specification D7-Stormwater Quality adopted April 2000.

Piped stormwater drainage within Road No 4 is to be maintained within the road reserve linking each piped system from proposed lot 45 to proposed lot 50. The piped sections within easements located on the common boundaries of lots 46 - 47 and 48 - 50 are to be deleted.

Discharge points from each of the proposed wetland ponds are to be defined on engineering plans including outlet detail.

Engineering design detail of any proposed system to convey waters from Wardrop Valley Road into the development site are to be provided in accordance with Development Design Specification D6 - Site Regrading adopted April 2000. In particular clause D6.10.4 is to be addressed.

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### C. Staging Management Plan:

1. Detailed plans are to identify the whole of the development site both for bulk earthworks and civil works, identifying the extent of stage for each component of construction.
2. The plans shall be such that each stage is complete in itself and will be viable in the event that no further stages are constructed. In this regard plans for each stage must demonstrate:
  - (a) Downstream (to legal point of discharge) drains, waterways, water quality devices and any ancillary works are constructed and title dedicated
  - (b) Internal trunk drainage is completed to the extent that there will be no adverse impact on upstream land
  - (c) Where proposed earthworks levels are inconsistent with existing levels at the interface with future stages any batters (or other encroachments) on future stages must be secured by means of temporary easement which may be surrendered (with Councils approval) when no longer necessary as future stages progress
  - (d) For staged subdivisions the engineering plans and attachments must demonstrate the road network, land forming, drainage systems, water supply and sewerage systems for each stage (as the stages progress) will be viable in their own right in the event that future stages are not constructed.

### D. Fire Trail and Asset Protection Zone:

The industrial subdivision shall meet the requirements recommended by Rural Fire Services relating to bush fire protection measures for the site. Specific requirements to be addressed shall include:-

A 20 metre wide Asset Protection Zone (APZ) and perimeter fire trail conforming with the requirements of NSW Government's manual "Planning For Bush Fire Protection" shall be provided on all industrial lots where the boundary adjoins grasslands, farm lands and bush land, other than along the Wardrop Valley Road boundary. The fire trail must be located between the landscaping and the future industrial buildings. Provision shall be made for fire fighters' access to the fire trail.

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### E. Landscape Management Plan:

This consent does not operate until Council is satisfied that the proposed subdivision, earthworks and potential future buildings on the site will be visually screened and integrated with the surrounding landscape. To satisfy Council in this matter, the applicant must submit to Council a detailed landscaping plan prepared by a suitably qualified landscape architect. The landscaping plan must also contain provisions to re-enforce the biodiversity values of the site, and include provision for salvage, preservation and use of native seedlings and seeds from existing site vegetation, eg *Hovea acutifolia* and *Lophostemon suaveolens*. The landscape plan shall identify all Black Walnut *Endiandra globosa* on the site and include arrangements for their translocation or propagation. The landscaping plan shall also include details of proposed landscape treatment to address the proposed works at the Murwillumbah pistol club.

### F. Geotechnical and Landfill Management Plan

This consent does not operate until Council is satisfied that the proposed subdivision, earthworks and landfill operations will be stable and will not generate adverse surface water, groundwater, landform or other environmental impacts. To satisfy Council in this matter, the applicant must submit to Council a Geotechnical and Landfill Management Plan that addresses the following issues and requirements:

- F1. Stability of all filling must be assessed in advance and managed during construction by a qualified and relevantly experienced geotechnical engineer.
- F2. Filling must be staged in plan so that an initial stage in each of "Site A" and "Site B" can operate as a field trial, located remote from the site boundary in an area chosen to minimise impact and maximise the scope for remedial treatment should instability or heave occur. The purpose will be to prove that the filling, monitoring and stability management procedures adopted are working satisfactorily, prior to filling onto the deeper areas of soft clay closer to the site boundaries.
- F3. Monitoring shall include the establishment and operation of monitoring points beyond the toe of the active filling area, to detect and record any heave due to filling. Monitoring must extend to a distance from the fill toe equal to at least twice the final height of

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the fill at that location. A minimum of at least 10 monitoring points in each of "Site A" and "Site B" is must be identified and monitored. Levels must be recorded prior to filling and immediately after the addition of each stage of fill height, plus more frequently if significant heave is indicated or suspected. The results of all monitoring are to be provided to Council in writing within 2 working days of each monitoring event.

- F4. Should any heaving or other problem be recognised, all filling on the site must cease immediately and the Council must be notified immediately. A remediation plan must be developed forthwith by a qualified and experienced geotechnical engineer at the applicant's expense and submitted to the Council for approval. After receiving the Council' approval the applicant must immediately implement the approved remediation plan. No further filling shall then occur until the Council gives written notice that it is satisfied that there would be no reoccurrence.
- F5. Acid sulfate drainage works shall be arranged so that all potentially contaminated drainage from the site, including that expelled from up to 5 m beyond the final fill batter toe, is directed to a collection pond for appropriate treatment prior to discharge.

### G. Noise Management Plan

This consent does not operate until Council is satisfied that all practical steps will be taken to minimise the impact of construction noise on residents and dwellings in the locality. To satisfy Council in this matter, the applicant must submit to Council a Construction Noise Management Plan that addresses, but is not necessarily limited to, each of the following issues:

- Identification of each work stage, site compound and construction depot.
- Identification of the specific activities that will be carried out and associated noise and vibration sources for each work stage, site compound and construction depot.
- Identification of all potentially affected noise and vibration sensitive receivers.
- The construction noise limits recommended by Tweed Shire Council's Construction Noise Management Guidelines.
- Regular and frequent noise and, where relevant, vibration monitoring, reporting and response procedures.

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- Assessment of potential noise and vibration from proposed construction methods, including noise and vibration from all construction, maintenance, transport and delivery activities.
- Detailed evaluation of feasible noise and vibration mitigation measures, including:
  - o Maximising offset distance between plant items and noise sensitive receivers;
  - o Avoiding using noisy plant simultaneously and/ or close together near sensitive receivers;
  - o Orienting equipment away from sensitive receivers;
  - o Loading and unloading close together near sensitive receivers;
  - o Siting and configuration of temporary earth bunds during earthmoving operations;
  - o Use of portable enclosures around mobile and fixed plant where noise impacts are likely to be unacceptable;
  - o Using noise source controls, eg residential class mufflers, to reduce noise from all plant and equipment used on the site. Examples of appropriate controls are provided in Section 5 of the RTA Environmental Noise Management Manual.
  - o Selection of plant and equipment based on noise emission levels;
  - o Use of alternate construction methods;
  - o Alternative arrangements with residents such as temporary relocation or voluntary property purchase;
  - o Selecting site access points and roads as far away as possible from sensitive noise receivers;
  - o Use of spotters, closed circuit TV and “Smart” reversing alarms in place of traditional reversing alarms.
- Description of management methods and procedures that will be used to control noise and vibration during construction.
- Justification for any activities proposed outside the construction hours nominated in this schedule.
- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency.
- Appointment of a noise impact auditor with qualifications and experience in construction noise evaluation and management.
- Specifying arrangements for regular inspections and reporting to both the developer and Tweed Shire Council by the auditor in respect of compliance with the Construction Noise Management Plan.

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- Internal noise audit systems including recording of daily hours of construction, progressive impact assessments as the work proceeds and site inspections by the Auditor.
- Establishment of a liaison group with representation from the developer, local residents and the auditor, and arrangements for prompt reporting to Council on the outcome all meetings of the group.
- Nomination of a Responsible Person who will be on the site and who will be responsible for responding to all noise and vibration related complaints.
- Procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity.
- Contingency plans to be implemented in the event of non-compliance with the Construction Noise Management Plan and/ or noise complaints.
- Education of construction personnel about noise minimisation.
- Limitation of general construction, transport, maintenance and machinery operation times to the hours 7am to 6pm Monday to Friday, 8am to 1pm Saturday, no work on Sundays. No activities that will generate noise levels that do not comply with Tweed Shire Council's Construction Noise Management Guidelines are to be undertaken on Saturdays or Sundays.
- Retro-fitting of affected residences to minimise noise impacts.

### **SCHEDULE B**

**NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.**

### **GENERAL**

1. The development shall be completed in general accordance with the following documents, except where varied by these conditions:
  - Statement of Environmental Effects, Darryl Anderson Consulting Pty Ltd, dated October 2002.
  - Letter from Darryl Anderson Consulting Pty Ltd dated 9 September 2003 seeking amendment of the application in accordance with the attached documentation.
  - Letter from Richard Harry engineering Services dated 22 August 2003 and accompanying Traffic Report Addendum and Erosion and Sediment Control plan and Stormwater management Plan.

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- TTM Consulting Traffic Engineering Report dated 4 September 2003.
- TTM Consulting Addendum Traffic Report dated 29 November 2003.
- TTM Consulting Environmental Noise Impact Report dated 19 February 2004.
- Len and Kay Ball Vegetation Strategy prepared July 2003; and subsequent Len and Kay Ball "Vegetation Strategy, Proposed Industrial Area, Wardrop Valley Road, South Murwillumbah" and accompanying Vegetation Strategy Plan approved 8.03 (Richard Harry Engineering Services) and 11 sheets of Sections, photographs and drawings.
- Amended subdivision plan NC White and Associates in 2 Sheets, dated 04/09/2003.
- Amended concept engineering drawings Richard Harry Engineering Services Pty Ltd, drawings A1-111 Sheets 1 to 19 dated 05.03 (Sheets 2, 3, 8, 9, 12, 16, 17), 08/03 (Sheets 4, 15), 02/04 (Sheets 5, 6), 07/03 (Sheets 7, 13, 14), 12/03 (Sheet 10), 01/04 (Sheet 11), 08/02 (Sheets 18, 19).
- Maiden Geotechnics Geotechnical Investigation Report update, July 2003.
- Maiden Geotechnics Acid Sulfate Soils and Groundwater Management Plan, November 2003.
- Maiden Geotechnics Response to Geotechnical Peer review dated February 2004.
- Letter from Darryl Anderson Consulting Pty Ltd dated 15 January 2004 and accompanying Road Intersection plan No. A1-111-01 (Richard Harry Engineering Services Sheet 1 of 1 dated 01/04), indicative Section, Cross Section and 4 colour photographs showing proposed works on and adjoining the pistol club site.
- Letter from Darryl Anderson Consulting Pty Ltd dated 23 February 2004 addressing requested Social Impact Statement.

[GEN0010]

2. Pursuant to the concurrence of DIPNR pursuant to SEPP 1, proposed Lots 47 to 50 inclusive must be deleted from the subdivision.
3. Any disturbance of acid sulfate soil must be managed in accordance with the "*Acid Sulfate Soils and Groundwater Management Plan Proposed Industrial Park Development Lot 31 DP 133404 Wardrop Valley Road Wardrop Valley – NSW*" dated November 2003 and prepared by Maiden Geotechnics, as amended in accordance with conditions of this consent.

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4. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.  
*[GEN0030]*
5. The applicant shall be responsible for payment of all costs associated with dedication of the public roads.
6. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual and Councils adopted Design and Construction Specifications applicable at the time of lodgement.  
*[GEN0040]*
7. Advertising structures/signs to be the subject of a separate development application, where statutorily required.  
*[GEN0070]*
8. No retaining walls or similar structures are to be constructed over Council's sewer main.  
*[GEN0090]*
9. No direct access to Wardrop Valley Road is permitted from adjoining industrial lots
10. The erection or use of any habitable dwelling on all proposed new industrial Lots is prohibited.
11. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.
  - a) copies of compliance certificates relied upon
  - b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - earthworks
    - roadworks
    - road pavement
    - road furnishings
    - stormwater drainage
    - water supply works
    - sewerage works
    - landscaping works
    - sedimentation and erosion management plans

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- location of all service conduits (water, sewer, Country Energy and Telstra)
- the approved Traffic Control Plan
- the relevant maintenance manuals (eg. G.P.T's, water pump station)

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[GEN0140]

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. Notwithstanding any other condition of this consent, separate construction certificates for bulk earthworks and civil works may be issued. The carrying out of bulk earthworks may be commenced and undertaken in accordance with the construction certificate for bulk earthworks but prior to the issue of a construction certificate for civil works where it can be demonstrated all works are compatible.
13. The applicant is to provide to Council written evidence from DIPNR that all necessary approvals have been obtained under the Soil Conservation Act 1939 to remove vegetation from areas mapped as protected land
14. An Environmental Management Plan must be submitted to and approved by Council addressing the following issues:
  - Investigation and reporting of water quality in watercourses downstream of the site;
  - A water monitoring plan, including a sampling regime that includes pre, during and post-construction monitoring of watercourses downstream of the proposal;
  - A reporting mechanism, with identified threshold and triggering levels, for reporting changes in water quality parameters to DIPNR.
15. The acid sulfate soil management plan is to be amended to include a monitoring and contingency schedule which includes the following details
  - Sampling locations
  - Parameters to be tested
  - Sampling frequency
  - Action thresholds
  - Remediation techniques

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- Responsible person(s)
- Reporting

This schedule to be to the satisfaction of the Director of Environment and Community Services.

16. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

17. Submission and approval of an air quality management plan addressing all dust suppression issues including:

- Methods to control dust creation
- Water application methods including water trucks and/or sprinklers
- Water sources
- Complaint protocol
- Monitoring

18. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director, Development Services.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

[PCC0080]

19. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate.

[PCC0090]

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20. The site is to be filled to a minimum of RL 6.7m AHD. The filling is to be constructed to a design submitted to and approved by the Director of Engineering Services prior to the release of the Construction Certificate. The filling plan of the site is to address the drainage on the site as well as any existing stormwater flows onto or through the site and the likely impact on stormwater drainage in the locality from the proposed filling. [PCC0100]
21. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction along the full length of the proposed subdivision vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems.
  - ii. The roads in the subdivision shall be generally in accordance with drawings A1-111 Sheets 1 to 19 dated 05.03 (Sheets 2, 3, 8, 9, 12, 16, 17), 08/03 (Sheets 4, 15), 02/04 (Sheets 5, 6), 07/03 (Sheets 7, 13, 14), 12/03 (Sheet 10), 01/04 (Sheet 11), 08/02 (Sheets 18, 19) prepared by Richard Harry Engineering Services Pty Ltd and shall be as follows:-

Reconstruction of Wardrop Valley Road to provide a rural formation of 11.0m incorporating a sealed pavement of 10.0m and gravel shoulders of 1.2m from the end of Lundberg Drive to the access road of the proposed subdivision.

Construction of a Type C intersection at the at the junction of proposed road 1 and Wardrop Valley Road in accordance with Austroads Pt 5 - Intersections at Grade. The intersection shall incorporate concrete median islands and pavement markings generally in accordance with Plan No. A1-111-11 prepared by Richard Harry Engineers dated August 03.

The eastern leg of the intersection shall incorporate a bitumen sealed bus bay in accordance with Austroads Part 11 - Parking, Figure 7.8

Any existing vehicular access points shall be reconstructed in accordance Councils Vehicular Access Pamphlet.

The intersection alignment shall provide a minimum dimension of 10m measured from the face of kerb to the proposed bund /wall

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along Murwillumbah Pistol Club (range) in accordance with Plan No A1-111-01 prepared by Richard Harry Engineers dated January 04.

Construction of internal roads comprising of a 13m wide pavement between kerbs, minimum 3.5m wide nature strip area on each side and associated drainage structures in accordance with DCP 16, Clause 6.4.5 and Table 6.2.

Construction of an intersection with proposed road 1, road 2 and road 3 incorporating a raised concrete roundabout in accordance with Austroads Part 6 having a minimum radius capable of accepting B-double vehicles maintaining a travel path within the designated travel lane. Travel paths are to be in accordance with Austroads, Design Vehicles and Turning Path Templates for a design travel speed of 5-15km/h.

Construction of an intersection with proposed road 1, road 3 and road 4 incorporating a raised concrete roundabout in accordance with Austroads Part 6 having a minimum radius capable of accepting B-double vehicles maintaining a travel path within the designated travel lane. Travel paths are to be in accordance with Austroads, Design Vehicles and Turning Path Templates for a design travel speed of 5-15km/h.

Reconstruction of the intersection of Quarry Road and Lundberg Drive to provide turning paths suitable for B-double (25m) trucks maintaining a travel path wholly within the designated travel lane. Travel paths are to be in accordance with Austroads, Design Vehicles and Turning Path Templates for a design travel speed of 5-15km/h.

Provide Armco safety barrier along Wardrop Valley Road adjacent to any proposed cutting fronting the development site. Alternative measures of constructing a landscaped earth bund may be adopted in lieu of an Armco barrier.

- iii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.

*[PCC0180]*

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22. Engineering detail of proposed bund/ impenetrable walls along the Murwillumbah Pistol Club (range) in accordance with Plan No A1-111-01 prepared by Richard Harry Engineers dated January 04.
23. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

24. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

25. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final

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approval is given and the maintenance bond (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

26. All future roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCC0350]

## PRIOR TO COMMENCEMENT OF WORK

27. Subdivision work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the subdivision work has been issued by:

- (i) the consent authority, or  
(ii) an accredited certifier, and

- (b) the person having the benefit of the development consent:

- (i) has appointed a principal certifying authority, and  
(ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and

- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

28. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor, Subdivision works accredited certifier (if Council not nominated) and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development

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Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

29. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

i. The person must, at the person's own expense:

- a. preserve and protect the building from damage; and
- b. if necessary , underpin and support the building in an approved manner.

ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

31. Prior to start of building works provide a certificate of adequacy, signed by a practising Structural Engineer on the completed rock retaining wall. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall.

[PCW0100]

32. Installation of a suitable perimeter drainage system, utilising lined drains and subsoil drains where required to a design submitted and approved by the Director, Engineering Services. The drainage system is to be installed and functioning prior to the placement of any fill hydraulically.

[PCW0130]

33. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.

The haul route for the transportation of filling to the site is to be identified and submitted to Council for written approval prior to commencing works.

[PCW0140]

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34. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority in accordance with the approved Erosion and Sediment Control Plan and Section 68 approval.

[PCW0190]

35. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.

[PCW0210]

36. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering Services Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

37. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

38. The written consent of the registered proprietors of adjoining land, to the works where the said works encroach thereon.

## DURING CONSTRUCTION

39. One copy of the plans stamped with Council's approval is enclosed herewith. Council will require seven (7) days' notice of intention to commence works in accordance with the requirement of DCP 16 Clause

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12.3.6. and submission of a completed Form 7 - Notice Of Commencement of Building or Subdivision Work and Appointment of Private Certifying Authority, a copy of which is attached to this certificate.

40. Council must be given 24 hours notice of all inspections as per subdivision manual requirements.
41. You are required to comply with the provisions of the Occupational Health and Safety Act and the Australian Standards AS 1742; particularly in respect of works being conducted on a public road, traffic control, RTA form 121 and ensuring safe public access at all times.
42. All engineering works required to be approved prior to the issue of a construction certificate, S138 and S68 applications are to be constructed in accordance with the approval.  
[DUR0020]
43. All demolition works associated with the proposed development shall comply with Australian Standard AS 2601 "The Demolition of Structures" and the relevant requirements of the WorkCover Authority.
44. All work shall comply with the approved acid sulfate soil management plan. Any disturbance of acid sulfate soil to be managed in accordance with the "*Acid Sulfate Soils and Groundwater Management Plan Proposed Industrial Park Development Lot 31 DP 133404 Wardrop Valley Road Wardrop Valley – NSW*" dated November 2003 and prepared by Maiden Geotechnics, as amended by conditions of this consent.

Any disturbed acid sulfate soil to be tested at a minimum rate of one (1) test per 1000m<sup>3</sup> of excavated material to determine the appropriate lime application rate. The testing method to be approved by the Director of Environment and Community Services prior to the commencement of any excavation below 5m AHD.

Bunds shall be free of acid sulfate soil material

45. No soil, sand, gravel, clay or other material shall be disposed of off the site.  
[DUR0030]
46. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or

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property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

47. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR0060]

48. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[DUR0150]

49. It is the responsibility of the applicant to restrict public access to the construction site, building works or materials or equipment on the site when work is not in progress or the site is otherwise unoccupied.

[DUR0200]

50. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station
- (v) Compliance Certificate - Drainage

**Note:**

1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.
2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

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### Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

### Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

### Sewer Pump Station

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]

51. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

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- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
- b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
- c. That the pavement layers have been compacted to RTA specifications.
- d. That site fill areas have been compacted to the specified standard.
- e. That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR0370]

52. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of the Director, Development Services.

[DUR0380]

53. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, adopted Design and Construction Specifications applicable at the time of lodgement except where varied by the conditions of this consent.

[DUR0400]

54. Provision of temporary turning areas for refuse vehicles at the end of roads which will be extended in subsequent stages until such time as the road is extended or a dedicated turning area is provided at the end of the road. These temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.

[DUR0420]

55. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty

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eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR0430]

56. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of the Director of Engineering Services and in accordance with Council's Standard Plan No. A4-96. Mountable or roll top kerb does not meet pram ramp requirements, and therefore requires a pram ramp to be constructed as above.

[DUR0500]

57. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.

[DUR0510]

58. A concrete ribbon footpath 1.2 metres wide and 75 millimetres thick is to be constructed on a compacted base along one side of each new road within the development site. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.

[DUR0520]

59. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.

[DUR0550]

60. Inter allotment drainage shall be provided to **all** lots where roof water for future buildings cannot be conveyed to the street gutter by gravitational means.

[DUR0580]

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61. i. Dedication of the proposed drainage reserve at no cost to Council.
- ii. An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.

[DUR0600]

62. A reticulated water supply shall be provided to the industrial lots to meet the requirements of the relevant Australian Standard for fire fighting purposes. Written certification of compliance with this condition from a practising civil engineer must be provided to Council.

63. The land within the industrial subdivision to be filled to the minimum design levels of RL 6.7m AHD as defined by the Construction Certificate.

[DUR0610]

64. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.

[DUR0620]

65. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.

[DUR0630]

66. Internal stormwater lines are to be connected directly into road drainage pits if available along the frontage of the site.

[DUR0710]

67. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.

[DUR0720]

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68. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

69. The water quality control ponds shall be fully fenced in accordance with the requirements of AS1926 for children less than five (5) years of age. *[DUR0730]*

70. i. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- ii. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified. *[DUR0810]*

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier. *[DUR0820]*

71. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties. *[DUR0850]*

72. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed / cutting adjacent to neighbouring properties. *[DUR0860]*

73. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. *[DUR0870]*

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74. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.  
*[DUR0880]*
75. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.  
*[DUR0890]*
76. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.  
*[DUR0920]*
77. Prior to and during construction provide a “shake down” area along the haul route located immediately before the intersection with the road reserve. The “shake down” area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.  
*[DUR0930]*
78. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.  
*[DUR1210]*
79. Landscaping of the site shall be carried out in accordance with the approved landscaping plans. The landscaping to be completed prior to release of the subdivision certificate, to the satisfaction of the Director, Development Services.  
*[DUR1230]*
80. Stage construction activities to minimise unvegetated area and seed fill areas immediately on completion. No area is to remain exposed (unvegetated) for more than 2 weeks unless construction work is being undertaken on that area.

## PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

81. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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Pursuant to Section 109J of the Environmental Planning and Assessment Act, 979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

### Stage 1

Water:	\$189,060.00
Sewer:	\$151,340.00

### Stage 2

Water:	\$32,880.00
Sewer:	\$26,320.00

### Stage 3

Water:	\$20,550.00
Sewer:	\$16,450.00

### Stage 4

Water:	\$24,660.00
Sewer:	\$19,740.00

### Stage 5

Water:	\$24,660.00
Sewer:	\$19,740.00

### Stage 6

Water:	\$24,660.00
Sewer:	\$19,740.00

### Stage 7

Water:	\$24,660.00
Sewer:	\$19,740.00

### Stage 8

Water:	\$20,550.00
Sewer:	\$16,450.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates

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applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

82. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

### Stage 1

- a. Tweed Road Contribution Plan: \$110,124.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

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and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices & Technical Support Facilities \$15,861.26  
S94 Plan No. 18

### Stage 2

- a. Tweed Road Contribution Plan: \$19,152.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

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Dist. average haulage distance of product on Shire roads  
(trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices & Technical Support Facilities \$2,758.48  
S94 Plan No. 18

### Stage 3

- a. Tweed Road Contribution Plan: \$11,970.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

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\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18 \$1,724.05

### Stage 4

- a. Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) (Sector 10\_4 - Keilvale) \$14,364.00

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\$Con_{TRCP - Heavy} = Prod. \times Dist \times \$Unit \times (1+Admin.)$$

where:

$\$Con_{TRCP - Heavy}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

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- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,068.86  
S94 Plan No. 18

### Stage 5

- a. Tweed Road Contribution Plan: \$14,364.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

#### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$  the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,068.86  
S94 Plan No. 18

### Stage 6

- a. Tweed Road Contribution Plan: \$14,364.00

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S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$  the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,068.86  
S94 Plan No. 18

### Stage 7

- a. Tweed Road Contribution Plan: \$14,364.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of

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Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$  the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,068.86  
S94 Plan No. 18

### Stage 8

- a. Tweed Road Contribution Plan: \$11,970.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 10\_4 - Keilvale)

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

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where:

\$Con<sub>TRCP - Heavy</sub> heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$1,724.05  
S94 Plan No. 18

*PCC0050/PSC0005]*

83. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

*[PSC0010]*

84. Completion of all works identified by the letter to Council from Darryl Anderson Consulting Pty Ltd dated 15 January 2004 and accompanying Road Intersection plan No. A1-111-01 (Richard Harry Engineering Services Sheet 1 of 1 dated 01/04), indicative Section, Cross Section and 4 colour photographs showing proposed works on and adjoining the pistol club site, as amended by conditions of this consent.

85. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

1. Easements for sewer, water supply and drainage over **ALL** services on private property.

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2. Drainage easements shall be provided in accordance with Development Design Specification D6 adopted June 20020, clause D6.10.5.3. Drainage easements shall be created over toe drains in favour of all upstream lands where batters are greater than 1m in height and wholly located within private land.
3. Easements are to be created over the discharge paths from wetlands to the legal point of discharge.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

86. Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for verbal approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".  
[PSC0030]
87. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.  
[PSC0040]
88. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.  
[PSC0060]
89. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove

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material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0070]

90. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
- (i) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122.00 per lot.
  - relevant development consent
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
  - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
  - a certificate of compliance from the relevant water supply authority (where applicable)
  - for subdivision involving subdivision works evidence that:
    - the work has been completed, or
    - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
    - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0090]

91. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor **AND** a Consulting Engineer Certifying that:

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- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

**Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.**

*[PSC0100]*

92. Prior to the issue of a **Subdivision Certificate** a defect liability bond (in cash **or** unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

*[PSC0110]*

93. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

*[PSC0120]*

94. i. In accordance with Development Control Plan No. 16 a 1.2m wide footpath constructed of concrete or paving blocks shall be provided for the full length of each road within the development site. The design and construction standard shall comply with AUSPEC (TSC Version).
- ii. Alternatively, the developer may pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
- iii. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

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The maintenance bond shall be lodged prior to release of the subdivision certificate.

[PSC0130]

95. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director of Engineering Services.

- Tiger Patch patch liner;
- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC0140]

96. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0150]

97. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction

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Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PSC0160]

98. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

99. i. The production of written evidence from Country Energy certifying that reticulation of underground electricity has been completed; and

ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

100. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: '**DUMP NO RUBBISH, FLOWS INTO CREEK**' or similar wording to the satisfaction of the Director of Development Services.

[PSC0220]

101. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

102. (i) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

(ii) To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

The names shall be approved **PRIOR** to lodgement of any plan of subdivision in respect of the development.

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Names which duplicate existing and approved street names will not be approved.

*[PSC0230]*

103. A Restriction as to User shall be entered on the Title of all industrial lots, prohibiting the erection or use of any habitable dwelling thereon. The necessary Section 88B documentation is to be lodged with Council prior to release of the subdivision certificate
  104. The development shall be completed to the satisfaction of the Director, Development Services (or his delegate), including variation to the approved plans required as a result of insufficient detail on the plans or to ensure that Council Policies and/or good engineering practices are achieved.
2. That the Director Development Services submit a report to Council addressing the applicant's request for rezoning to industrial of those lands identified on the applicant's subdivision plan as proposed industrial lots which are located outside the Industrial 4(a) Zone.

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REPORT:

**Applicant:** Tweed Valley Industrial Park Pty Ltd

**Owner:** Crown, Tweed Shire Council, John Partland, Mary Stainlay, William & Deborah Dickinson & Carole & Leslie Dickinson

**Location:** Lots 1 and 2 DP 1051874, Lot 1 DP 232745, Lot 10 DP 258122, Lot 2 DP 591194, Lot 1 DP 846151 and Crown Public Road, Wardrop Valley Road South Murwillumbah

**Zoning:** (a) Rural; 4(a) Industrial; 1(b2) Agricultural Protection; 7(l) Environmental Protection (Habitat) and 5(a) Special Uses

**Cost:** \$4.5M

### 1. BACKGROUND:

This application seeks consent for subdivision of the subject land into a total of 57 new Lots in eight stages, together with associated access, bulk earthworks, road and drainage construction, landscaping and ancillary works. The application also includes the undertaking of certain works on the site of the Murwillumbah Pistol Club to ensure that the club's continued operation would not be jeopardised by the issue of consent for the proposed subdivision.

If approved, the end result would be the creation of a total of 46 industrial lots and four "service" lots within the industrial subdivision; and 6 residue rural lots in the adjoining area. Although the application seeks consent for creation of 57 lots, the net final yield would be a total of 56 Lots, as one of the initial staging Lots would be resubdivided during the process.

Council presently owns much of the subject land and has contracted to sell it to the applicants, subject to various conditions. The terms of the contract and proposed sale are separate from determination of this development application by Council in its role as Consent Authority, which is a separate function to Council's role as a landowner. However, because of Council's ownership of the land, an independent consultant engaged by Council has undertaken the development application evaluation and reporting process. Various technical staff of Council contributed input to that process, but the consultant undertook the evaluation of the application.

Council's consent as owner of part of the land has been granted to lodgement of the development application in accordance with the requirements of the Environmental Planning and Assessment Act. All other owners' consents have also been submitted.

It was initially thought that the proposed subdivision would constitute Integrated Development, but subsequent advice from the Department of Infrastructure Planning and Natural Resources (DIPNR) and from Department of Environment and Conservation (DEC) has confirmed that the proposal is not Integrated Development.

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The application was originally lodged with Council on 10 October 2002. Following consultation with Government agencies and review by Council staff, the applicants were requested to provide substantial additional information.

The application was initially advertised from 26 February to 28 March 2003, resulting in receipt of a total of 40 submissions, together with advice from Government Agencies.

The applicant's responses to the request for additional information, together with amendments to the original development proposals, were submitted to Council in September 2003. The amended application was re-advertised from 8 October to 7 November 2003. The amended proposal was referred to DIPNR and EPA (now DEC), and was also referred for advice to RFS and the Police Firearms Registry. Thirty three community submissions and further advice from DIPNR, DEC and RFS were received as a result of the second round exhibition and consultation.

A community meeting was held during the second public exhibition period and a separate meeting and numerous discussions were held with the Murwillumbah Pistol Club. Details of those meetings and their outcomes are discussed in the report below.

As a result of community submissions regarding ecological matters, Council engaged Mark Fitzgerald, consulting ecologist, to review the applicant's flora and fauna assessment, following the initial exhibition period. The results of that review are discussed in Section 5 below.

The application was submitted pursuant to SEPP No. 1 – Development Standards, as either part or the whole of 13 of the proposed industrial lots, and two of the lots proposed for drainage and sewer services lie outside the 4(a) Zone and within Zone 1(a), and are less than 40 hectares in area. This matter is discussed in Section 5 below. Section 5.4 of the applicant's Statement of Environmental Effects includes a request that Council amend the zoning of all the land within those proposed industrial lots to 4(a) industrial. That rezoning request is not dealt with in this report, as it is a separate matter that should be considered by Council if consent is granted to the development application.

## 2. THE SITE:

### 2.1 The wider site:

The subject land is described as Lots 1 and 2 DP 1051874, Lot 1 DP 232745, Lot 10 DP 258122, Lot 2 DP 591194, Lot 1 DP 846151 and Crown Public Road, Wardrop Valley Road South Murwillumbah. The land contains a total of 337.4 hectares in all. It is located generally to the south of Wardrop Valley Road, with parts of the land extending to Fernvale Road in the east and Lundberg Drive in the west.

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The wider site falls within the following Zones under Tweed LEP 2000: Zones 1(a) Rural; 4(a) Industrial; 1(b2) Agricultural Protection; 7(l) Environmental Protection (Habitat); and 5(a) Special Uses.

The site of the proposed industrial subdivision component of the development is not located on Prime Agricultural Land, but parts of the proposed larger rural residue lots are shown as Class 3 land on Council's GIS. Parts of the proposed subdivision, including parts of some proposed industrial lots, fall within Class 2 and Class 3 Acid Sulfate Soils areas. The site is affected by areas of high, moderately high and medium groundwater sensitivity.

The low lying parts of the site, including parts of the area to be filled to create the industrial lots, are subject to flooding.

Most of the site is unaffected by identified bush fire hazard, but Council's GIS indicates some small scattered pockets of High and Medium risk areas. Rural Fire Services (RFS) advises that the industrial site "contains areas likely to be considered bush fire prone".

The site is not within the Coastal Zone and is not affected by SEPP 71 – Coastal Protection. It is not affected by SEPP 14 – Coastal Wetlands or SEPP 26 – Littoral Rainforests. Council's Tree Preservation Order does not apply to this land. No known heritage or archaeological sites are affected.

In all, the wider area affected by the subdivision and creation of residue lots includes a wide variety of landscapes, including cane farms, pasture lands, vegetated land, the Murwillumbah pistol club and the Council's quarry.

### 2.2 The Industrial Subdivision site:

The proposed industrial subdivision and its associated earthworks and construction activity are situated within the wider site, covering an area of approximately 55 hectares. Proposed earthworks and construction activity for the development are generally confined to the actual site of the proposed industrial subdivision ("the industrial site"), except for external roadworks, landscaping, services connections and upgrading works at the pistol club. The industrial site constitutes primarily cleared pasture land with scattered pockets of vegetation, and ranges in gradient from flat to steep.

The site of the proposed industrial lots falls within Zones 4(a) (Industrial) and 1(a) (Rural) under LEP 2000. Part of the western boundary of the industrial component adjoins land within Zone 1(b1) (Agricultural Protection), but does not extend into that Zone.

Wardrop Valley Road forms the north eastern boundary of the industrial site. The pistol club and adjoining vegetated land adjoins the northern extremity. Cane land adjoins to the west and pasture land adjoins to the south.

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An existing dwelling house is located on an existing lot the northern part of the industrial site. The boundary of that dwelling site is to be modified by the proposed subdivision, but that lot is not part of the applicant's industrial estate.

The industrial estate site does not contain permanent buildings or structures.

### 3. PROPOSED DEVELOPMENT:

The documents comprising the development application include: -

- Statement of Environmental Effects, Darryl Anderson Consulting Pty Ltd, dated October 2002.
- Letter from Darryl Anderson Consulting Pty Ltd dated 9 September 2003 seeking amendment of the application in accordance with the attached documentation.
- Letter from Richard Harry engineering Services dated 22 August 2003 and accompanying Traffic Report Addendum and Erosion and Sediment Control plan and Stormwater management Plan.
- TTM Consulting Traffic Engineering Report dated 4 September 2003.
- TTM Consulting Addendum Traffic Report dated 29 November 2003.
- TTM Consulting Environmental Noise Impact Report dated 19 February 2004.
- Len and Kay Ball Vegetation Strategy prepared July 2003; and subsequent Len and Kay Ball "Vegetation Strategy, Proposed Industrial Area, Wardrop Valley Road, South Murwillumbah" and accompanying Vegetation Strategy Plan approved 8.03 (Richard Harry Engineering Services) and 11 sheets of Sections, photographs and drawings.
- Amended subdivision plan NC White and Associates in 2 Sheets, dated 04/09/2003.
- Amended concept engineering drawings Richard Harry Engineering Services Pty Ltd, drawings A1-111 Sheets 1 to 19 dated 05.03 (Sheets 2, 3, 8, 9, 12, 16, 17), 08/03 (Sheets 4, 15), 02/04 (Sheets 5, 6), 07/03 (Sheets 7, 13, 14), 12/03 (Sheet 10), 01/04 (Sheet 11), 08/02 (Sheets 18, 19).
- Maiden Geotechnics Geotechnical Investigation Report update, July 2003.
- Maiden Geotechnics Acid Sulfate Soils and Groundwater Management Plan, November 2003.
- Maiden Geotechnics Response to Geotechnical Peer review dated February 2004.
- Letter from Darryl Anderson Consulting Pty Ltd dated 15 January 2004 and accompanying Road Intersection plan No. A1-111-01 (Richard Harry Engineering Services Sheet 1 of 1 dated 01/04), indicative Section, Cross Section and 4 colour photographs showing proposed works on and adjoining the pistol club site.

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- Letter from Darryl Anderson Consulting Pty Ltd dated 23 February 2004 addressing requested Social Impact Statement.

The proposal involves substantial earthworks, in the vicinity of 1.5 million cubic metres of cut and fill, with cut and fill depths to around 19 metres and 14 metres respectively. Construction work in Wardrop Valley Road and the intersection of Quarry Road and Lundberg Drive will also be required, as well as work on the Murwillumbah Pistol Club premises to provide for retention of the Club's License to operate in the changed circumstances. Various road widenings are proposed along Wardrop Valley Road to accommodate changes to the road alignment required by the proposed road upgrading. The applicant's Statement of Environmental Effects (SEE) states that construction of the subdivision and its associated works is expected to take around 5 years.

The end result of the development would see the creation of 46 new industrial Lots, 4 infrastructure Lots and 6 residue Lots.

Access to the site from the Tweed Valley Way is proposed via Reserve Creek Road, Quarry Road, Lundberg Drive and Wardrop Valley Road, connected to the site via a new intersection off Wardrop Valley Road adjoining the Murwillumbah Pistol Club.

As discussed earlier, the application is accompanied by a SEPP 1 objection to the minimum 40 ha subdivision area requirements of Tweed LEP 2000 Clause 20.

In summary, the proposal involves:

### 3.1 Staged subdivision to create the following Lots:

- Stage 1 - subdivision of the subject land to create Lots 101 to 106. Lot 102 would be then re-subdivided in the subsequent stages.
- Stage 2 – creation of industrial Lots 5 to 12.
- Stage 3 - creation of industrial Lots 13 to 17.
- Stage 4 - creation of industrial Lots 18 to 23.
- Stage 5 - creation of industrial Lots 24 to 29.
- Stage 6 - creation of industrial Lots 30 to 35.
- Stage 7 – creation of industrial Lots 36 to 41.
- Stage 8 - creation of industrial Lots 42 to 50.
- During the various Stages, Infrastructure Lots Nos. 51 to 54 would be created to accommodate drainage and road facilities. Lot 55 would be created during the last stage as the final residue Lot.
- The proposed resultant Lot areas are:
- Lots 5 to 50 inclusive - Industrial Lots varying in area from 0.396 ha to 3.21 ha.
- Lots 51 to 54 inclusive – Drainage Reserve and Sewer pump station Lots within the Industrial Estate.

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- Lot 55 – Residue Lot resulting from resubdivision of proposed Lot 52, 129.9 ha.
- Lots 101 and 103 to 106 inclusive – residue Lots varying in area from 0.38 ha to 73.72 ha.

### **3.2 Construction of external road access and road upgrading, including:**

- A new intersection is proposed to provide access to the subdivision from Wardrop Valley Road adjoining the pistol club, in the location shown in Intersection plan No. A1-111-01 (Richard Harry Engineering Services). The primary “through” link of this road would become the section connecting from the Lundberg Drive industrial area through the proposed subdivision. The existing section of Wardrop Valley Road to the east would form a T-Junction at the new intersection. Part of the new access road would cross an existing unformed Crown Road Reserve, which is proposed to be dedicated in conjunction with the development.
- Wardrop Valley Road from the end of Lundberg Drive to the proposed development site and the intersection of Quarry Road and Lundberg Drive shall be required to be upgraded to meet Council minimum standards.

### **3.3 Bulk earthworks to create relatively level sites for the proposed industrial Lots. This work would include:**

- Approximately 1.5 million cubic metres of cut and fill, with cuts up to around 19 metres depth (traverse Chainage 400) and fills up to around 14 metres (traverse chainage 500).
- Pre-compression loading of low lying fill areas using additional fill material to compress alluvial sediment material to provide a stable base for fill material. No excavation is proposed in the low-lying areas.
- Associated acid sulfate soils, erosion/ sedimentation and drainage management measures.

### **3.4 Internal civil works, including:**

- Construction of internal subdivision roads, intersections and roundabouts capable of accommodating B-Double truck movements.
- Services provision, including electricity, telephone, water and sewer reticulation, sewer pumping station and rising main to Council sewer.
- Drainage and stormwater management works. Drainage would be directed into a treatment regime in each of the three catchments, including filter strips, grassed swales, infiltration trenches and extended detention basins.

### **3.5 Landscaping and site rehabilitation works, including:**

- Bunding and landscaping with dense screen planting along the Wardrop Valley Road frontage in accordance with Vegetation Strategy 1 in Len and Kay Ball “Vegetation Strategy” documents.

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- Preservation of existing grassed embankments below the finished site level where the proposed earthworks involve excavation of hills.
- Hydromulching of fill batters to provide rapid grass cover.
- Perimeter planting with pioneer species, shrubs and Hoop Pines (*Araukaria Cunninghamia*) along batters where the development can be viewed from the Murwillumbah urban area, in accordance with Vegetation Strategy 3 in Len and Kay Ball "Vegetation Strategy" documents.
- Perimeter planting with screening species along the borders of the site where the development could be viewed from surrounding rural and rural residential development, in accordance with Vegetation Strategy 2 in Len and Kay Ball "Vegetation Strategy" documents.
- Revegetation of drainage reserve embankments with hydromulching, hydroseeding and tree and shrub planting.

### 3.6 Work at the Pistol Club site, including:

- Supplementation of the existing earth bund and side wall to provide a 6.5 metre high bund and impenetrable fence at the site's southern boundary, with side wall reducing to 2.4 metre height.
- Consideration of the pistol club's needs has also resulted in relocation of the proposed new road intersection to provide a minimum 10 metre footpath width adjoining the club's side wall.

No work would extend on to adjoining sugar cane growing land or cane drains.

The applicant's Statement of Environmental Effects (Section 2.0) requests that Council structure the consent to enable a Construction Certificate for bulk earthworks to be issued over the whole site prior to issue of a Construction Certificate for all civil works. An appropriate condition is included in the recommendation.

## 4. CONSULTATION AND PUBLIC EXHIBITION

### 4.1. First round:

The development application was initially advertised and exhibited for public comment from 26 February to 28 March 2003. Forty submissions were received from the community as a result of the exhibition. Advice was also received from DLWC, EPA and the NSW Police Firearms Registry.

The advice from Government agencies has since been overtaken by the advice provided as a result of the second round public comment phase, which is discussed in section 4.2 below.

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The issues raised in the first exhibition and comments thereon are précised in Appendix A (see table below). Many of the issues raised in community submissions were raised again during the second round exhibition. Those issues are addressed in Appendix B.

### APPENDIX A – ISSUES RAISED IN FIRST ROUND PUBLIC EXHIBITION

No.	ISSUE	COMMENT
1	<p><u>Flooding and Surface Water</u> Blacks Drain Swamp Drainage Union has no objection provided no increase in velocity in Drainage Union system</p> <p>Flood impacts are significant and have not been adequately addressed</p> <p>Have Council and EPA addressed flooding to surrounding lands and roads – refer Flood Plan announced in Tweed Link?</p> <p>Proposed development will create ponding of water in low-lying areas on nearby properties after significant rainfall. Poned water will take longer to drain, affecting nearby farming and cattle operations.</p> <p>Flooding assessment fails to address potential for flood levels exceeding 100 year flood (RL 6.4) as climate changes</p> <p>National environmental policy allows for tidal surges and flooding increases due to unpredictable effects of global warming. Resultant flooding of surrounding properties, increased pollution and potential acid sulfate leaching may lead to additional management costs for taxpayers</p>	<p>Flooding and related issues were the subject of additional information requests following the first round exhibition. These issues are addressed in the DA evaluation report to Council and in Appendix B.</p>

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No.	ISSUE	COMMENT
2	<p><u>Community Consultation/ Exhibition</u></p> <p>Community consultation has been inadequate for such a major project</p> <p>Has Council sufficiently advertised the DA and its impact?</p> <p>Community could not easily access the exhibition because of the number of people wanting to inspect the DA</p> <p>DA is flawed and should be re-exhibited for following reasons:</p> <ul style="list-style-type: none"> <li>• Did not contain proper map showing lots 31, 2 and 1, therefore impossible to understand proposed subdivision, current ownership or zoning;</li> <li>• Zoning map in black and white, impossible to ascertain zones;</li> <li>• Poor photocopies of vegetation maps – impossible to ascertain location and nature of vegetation communities;</li> <li>• One map showed watercourse boundary but others did not – impossible to assess water and watercourse ecologies, not assessed by DA;</li> <li>• No Species Impact Statement – required for koalas at least.</li> </ul>	<p>The amended DA and supporting additional information were subsequently re-exhibited in the round 2 exhibition process – see report to Council and Appendix B.</p>
3	<p><u>Ethics and Procedure</u></p> <p>Query ethics of land sale subject to Council consent</p> <p>Query ethics of land sale in manner proposed and whether in best commercial interests</p>	<p>These matters are separate from determination of this development application by Council in its role as Consent Authority. That role is a separate function to Council's role as a landowner, and to Councillors' and staff</p>

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No.	ISSUE	COMMENT
	Are there possible conflicts if Council's Strategic Plan for the locality's future advantages persons involved with Tweed Shire Council?	obligations to declare interests where relevant. Because of Council's ownership of the land, an independent planning consultant engaged by Council has undertaken the development application assessment and reporting process for this application. Various technical staff of Council contributed input to that process, but the consultant undertook the evaluation of the application.
4	<p><u>Landscape and Visual Impact</u></p> <p>DA does not identify precise scenic views impacted and does not show how revegetation plan would moderate these</p> <p>The visual impact in changing from rolling farmlands to industrial development is unacceptable, particularly given the site's classification by Council's Scenic Evaluation Report (by Katherine Brouwer) as very high scenic quality and Landscape management Zone A. The site is visually prominent from surrounding areas and is of critical scenic value.</p> <p>Does visual impact from Murwillumbah and Tweed Valley Way fit in with critical scenic value?</p>	Additional landscape and visual evaluation information was obtained from the applicant following the round 1 exhibition period. This issue is addressed in the report to Council.
5	<p><u>Developer Actions and Intentions</u></p> <p>Have the developers already purchased equipment for this project, foreshadowing approval?</p> <p>Have developers already "sold" stages of this development and to</p>	<p>Council's consultant is not aware of specific equipment purchases, but any actions by the developer prior to issue of consent would be entirely at the developer's risk.</p> <p>Council's consultant is not aware of specific expressions of interest for the</p>

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No.	ISSUE	COMMENT
	<p>what kind of industry? Will Council or developer confirm that one of Australia's largest truck hauling companies has purchased or holds option on a large parcel in this development which will affect the number of large vehicles using Wardrop Valley Road and many main roads? If so what time restrictions will be imposed to limit night use and impacts? Is one of Australia's largest retailers building an enormous warehouse that would require 24 hours access?</p>	<p>proposed industrial lots, but any future development proposals would be subject to separate application, environmental evaluation and approval processes.</p>
<b>6</b>	<p><u>Nature of Proposed Development</u></p> <p>What is definition of "Light Industry" and what sort of industry will this development contain? Indications of likely industry type hinge around heavy transport, not the high tech industry needed in this area.</p>	<p>Tweed LEP 2000 defines "Light Industry" as "an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise". Permissible uses in Zone 4(a) Industrial are those defined by Tweed LDEP 2000 Clause 11 as Item 1, Item 2 and Item 3 uses within the zone. All future uses will be subject to separate application, evaluation and approval processes.</p>
<b>7</b>	<p><u>Future Planning and adjoining Development</u></p> <p>What is Council's Strategic Action Plan for development of surrounding lands if this development approved? Development has Trojan Horse implications as the intending developers have advised they plan to develop large areas of adjacent</p>	<p>These issues were raised in the Community meeting – see Appendix C. The Mayor advised the community meeting that the current Council has no urban or industrial expansion plans or intentions in this locality.</p>

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No.	ISSUE	COMMENT
	<p>industrial zoned land using infrastructure paid for by Council in this development.</p>	
<p><b>8</b></p>	<p><u>Traffic and Access</u></p> <p>Will Council release proper figures of vehicular traffic expected on Wardrop Valley and Fernvale Roads?</p> <p>Will Council release proper figures of vehicular traffic expected to enter and use Tweed Valley Way including proposed increase resulting from Condong Co-Generation Plant?</p> <p>What upgrading is proposed to Wardrop Valley Road, Fern Valley Road and the Tweed Valley Way intersection?</p> <p>Need to identify impacts of increased activity along the route to the site.</p> <p>Need to address alternatives to road transport, eg rail link</p> <p>Proposed access from north is unsuitable as it is flood affected (particularly from the nursery to the rubbish tip), narrow and winding, and close to residences. One bend is identified as a dangerous "black spot". Tweed Shire Potential Industrial Land Report (February 2000) recommends flood free access for industrial land.</p> <p>Access from south is unsuitable as it is flood affected, narrow and winding with steep grades in places and has no "turn-around" point in flood times.</p>	<p>Amended traffic proposals and evaluations were subsequently obtained for the applicants and are addressed in the report to Council. See also Appendix B.</p>

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No.	ISSUE	COMMENT
	<p>Traffic movements on this road from the development would create significant lifestyle and traffic impacts on residents and likely adversely affect property values</p> <p>More acceptable means of flood free access are available, eg via either Quarry Road or a new road from Tweed Valley Way south of Murwillumbah. Access via Quarry Road would enable discrete development of the north side of Wardrop Valley Road for future residential and the south side for industrial purposes</p> <p>The application is silent about realignment in Wardrop Valley Road and pavement widening between Hayley Close and the proposed intersection. More accidents will occur unless alignment and pavement are substantially improved</p> <p>Sight distance at the proposed intersection on Wardrop Valley Road is inadequate</p> <p>Alternative access could be provided southerly off Wardrop Valley Road near the pistol Club entry then to the ROW on Lot 1 DP 591194 within the development. This would require a T junction in Wardrop Valley Way</p> <p>Proposed road intersection is between 2 school bus stops which operate at peak times, creating increased traffic danger for children crossing the road.</p> <p>The proposed road intersection may</p>	

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No.	ISSUE	COMMENT
	<p>eventually serve the entire Wardrop Valley area with future industrial and residential area, and should be moved west away from the 6 rural residential dwellings approved by Council in recent years. Council should prepare a development control plan to improve designs for access etc.</p> <p>Road access should be relocated away from the existing house, retaining wall and roadside garden of Lot 2 DP 591194.</p>	
<b>9</b>	<p><u>Geotechnical Issues</u></p> <p>Does the geotechnical report seriously question the site's suitability including soil, compaction, settlement, acid sulfate soil and excess material disposal?</p> <p>The further testing recommended in the geotechnical report must be undertaken before DA is determined</p> <p>The geotechnical report highlights critical inadequacies re suitability of soil characteristics, soil improvement techniques and compaction suitability. Proposed soil improvement techniques associated with filling and development of wetland areas are of particular concern, including Pre-treatment by proposed fill only, Bulk excavation of soft materials and pre-compression/pre-loading.</p>	<p>Geotechnical and related issues were the subject of additional information requests and peer review. These issues are addressed in the DA evaluation report to Council and in Appendix B.</p>

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No.	ISSUE	COMMENT
10	<p><u>Noise Impacts</u></p> <p>What noise impacts would occur on local residents, including those on Tweed Valley Way who were expecting a quieter environment? What compensation will be paid for noise minimisation and breach of Duty of Care?</p> <p>Noise levels generated by additional traffic and heavy vehicles on Wardrop Valley Road will create unacceptable impacts on residents living along the road.</p>	<p>Acoustics and related issues were the subject of additional information requests following the first round exhibition. These issues are addressed in the DA evaluation report to Council and in Appendix B.</p>
11	<p><u>Alternative Sites</u></p> <p>What alternative sites have been considered for industry that will not have the impacts of this development? Many other areas in Tweed Shire have level terrain and nearby highway access that are more suited for industrial development without such adverse effects on residents and environment (eg Chinderah)</p>	<p>This application seeks consent on the subject land, which has been zoned for industrial purposes for many years. The proposal is consistent with Council's Strategic Plan. Council continues to pursue other industrial rezoning opportunities but is experiencing difficulty identifying appropriate lands due to constraints.</p>
12	<p><u>Flora and Fauna</u></p> <p>Flora and fauna assessment is Inadequate</p> <p>Development will increase impacts on koala habitat on Wardrop Valley Road and nearby properties</p> <p>Flora and fauna survey does not address impacts outside the site</p> <p>Need to link existing small remnants of native vegetation rather than remove them</p>	<p>Flora and fauna issues were the subject of review by Council's consultant ecologist following the first round exhibition. These issues are addressed in the DA evaluation report to Council.</p>

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<b>No.</b>	<b>ISSUE</b>	<b>COMMENT</b>
	<p>Report identifies Black Plum as ROTAP species</p> <p>Marbled Frogmouth and other native birds and animals would be endangered</p> <p>No assessment of significant watercourse flora/ fauna in area marked Zone A on DA map</p> <p>Impossible to locate rare tree Endiandra globosa, and their 2RC classification means they are not expendable</p> <p>Need to address Green and Golden Bell Frog and Wallum Froglet</p> <p>Site unsuitable as species indicators (notably wild plum) indicate that this is a seed rich native forest area in process of regenerating</p> <p>Need for further trials to establish whether rare flying fox species or koala have core colony presence</p> <p>Increased killing of cattle egrets by increased traffic</p>	
<b>13</b>	<p><u>Land Contamination</u></p> <p>The adjacent tip will affect land contamination – testing required.</p> <p>Inadequate contamination assessment has been undertaken of the site of Council's previous livestock impounding yards, which were located on the site for many years and included chemical treatment of livestock.</p>	<p>Contamination and SEPP 55 issues were the subject of additional information requests following the first round exhibition. These issues are addressed in the DA evaluation report to Council.</p>

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No.	ISSUE	COMMENT
14	<p><u>Water Table and Groundwater</u></p> <p>Water table will be altered and the river will be contaminated with runoff. Section 5.3 of the SEE re Rivers and Streams impacts disregards the proximity of Tweed River and Condong Creek and their interconnection via the water table</p>	<p>Capping of degraded scalded areas will remove this source of existing poor water quality. There is expected to be improvement in downstream water quality as a result.</p>
15	<p><u>Social Impacts</u></p> <p>The SEE's Social Impact assessment disregards impacts beyond the site, eg increased traffic, social isolation of Wardrop Valley Way residents from Town Centre, noise, air quality deterioration, traffic danger (including children, school bus and elderly)</p>	<p>Social issues were the subject of subsequent additional information requests to the applicant. These issues are addressed in the DA evaluation report to Council and in Appendix B.</p>
16	<p><u>Sustainable Development</u></p> <p>How is ESD commitment (SEE S5.12) to be monitored, given current lack of government resources for monitoring? Economic and ecological sustainability of this development is questioned</p>	<p>ESD issues are evaluated as part of the assessment report to Council, together with the requirements of Tweed LEP 2000. See the DA evaluation report to Council.</p>
17	<p><u>Character and Amenity</u></p> <p>The development would damage the character of Wardrop Valley as a desirable rural residential and farmland area by increased noise, loss of privacy, dangerous traffic increase, damage to the scenery in identified Scenic Management Zone A, possible pollution and reduced property values</p>	<p>The subject land has been zoned for industrial development for many years and is consistent with Council's Strategic plan. Environmental impacts, character and amenity issues are addressed in the report to Council.</p>

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No.	ISSUE	COMMENT
18	<p><u>Loss of Highway Deviation Benefits</u></p> <p>Proposed development would damage the newly perceived image of Murwillumbah as a "Garden Suburb" close to the coast and free of Highway traffic, which could lower the town's attraction as a tourist day-trip area and family residential town currently enjoying a real estate "boom"</p> <p>The removal of trucks resulting from opening the freeway link has restored peace. The increased truck traffic from this development will increase danger, noise and air pollution and may bring back high level of serious accidents, including on Burringbar Ranges</p>	<p>The subject land has been zoned for industrial development for many years and is the proposal is consistent with Council's Strategic plan. Traffic growth and its associated impacts are inevitable with this form of economic development, wherever it occurs in the Tweed.</p>
19	<p><u>Acid Sulfate Soils</u></p> <p>Acid sulfate soils impacts are significant and have not been adequately addressed</p> <p>Statement that there will be no surface penetration therefore no ASS issues is difficult to accept.</p> <p>The Maiden Geotechnics report advises PASS are indicated and further testing is required. Test bore soil samples were acidic, and borehole 2 Site A sample became acidic after exposure to air. That sample was at a depth 23m above the proposed base level of the excavation and the tests give no indication of what may be found at these depths. Given volume and</p>	<p>ASS issues are addressed in more detail in the applicant's subsequent Acid Sulfate Soils Management Plan (ASSMP). The plan is adequate, with minimal disturbance of ASS proposed.</p> <p>ASSMP addresses any disturbance and provides monitoring of any discharges.</p> <p>Additional soil and water testing has been undertaken and presented in the Nov 2003 ASSMP. Management including monitoring is adequate. Minimal disturbance is now proposed.</p>

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	depth of earth to be moved, preliminary tests are limited in assessing full extent of ASS problem. Nature of the project will expose large volumes of soil to air, causing oxidation and acid release when exposed to water. Storage of soil would perpetuate this problem and attendant risk of acid sulfate leaching. Unless further testing proves limited ASS occurrence, excavation to these depths is likely to generate immense acid sulfate leaching to surrounding waterways and Tweed River, with major ecological and economic impacts for the region. Unless further testing proves limited PASS soils, the application should be rejected due to environmental risks.	
<b>20</b>	<p><u>Site Suitability and alternate uses</u></p> <p>The need to level hills to fill valleys makes clear that the land is not suited to industrial development</p> <p>The site is unsuitable for industrial development due to the extensive earthworks required, enjoys views to Mt Warning</p> <p>The site is ideal for other purposes, eg small acreage residential, future community use</p>	The subject land has been zoned for industrial development for many years and is the proposal is consistent with Council's Strategic plan, subject to the proposed conditions.
<b>21</b>	<p><u>Agricultural Land</u></p> <p>Part of site is Zone 1(b) Agricultural Protection, not addressed by DA. The site is Prime Agricultural land which should be preserved despite its industrial zoning</p>	These issues are addressed in the report to Council. No Prime Agricultural land is affected by the proposed construction or industrial land uses.
<b>22</b>	<u>Pollution</u>	

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No.	ISSUE	COMMENT
	<p>Proposal to limit polluting runoff is inadequate. Proposed fill within 40m of watercourses and in swampland requires further assessment to ensure no pollution by phosphates and other pollutants to Tweed River.</p>	<p>Monitoring of captured stormwater and leachate is proposed prior to any discharge. Capping of existing scalded areas will remove this source of poor water quality.</p>
<b>23</b>	<p><u>Revegetation and Buffers</u></p> <p>The revegetation plan should not include species not native to this area</p> <p>Plans for vegetation buffer within proposed lot 31 inadequate – buffer should be within development site</p> <p>3 mete buffer zones are too small for such a large development. The Tweed Shire Potential Industrial land Investigation Report (Feb 2000) recommended 500 metre buffer zones between residential and industrial development.</p>	<p>Revegetation, buffer and visual impact issues were subsequently re-addressed in additional information requests, Council's flora and fauna consultant's report and the DA evaluation report to Council.</p>
<b>24</b>	<p><u>Economic Evaluation</u></p> <p>DA projections re job creation (920 jobs) and income (\$50m pa) are not properly documented and not demonstrated. Current jobs per hectare in Murwillumbah industrial estate would be more accurate</p>	<p>This issue is addressed in the report to Council.</p>
<b>25</b>	<p><u>Bush Fire Hazard</u></p> <p>Increased bushfire hazard resulting from development adjoining vegetated areas needs to be addressed</p>	<p>The application was subsequently referred to Rural Fire Services. This matter is addressed in the report to Council and appropriate conditions are included in the recommendation.</p>
<b>26</b>	<p><u>Zoning Process</u></p> <p>Rezoning of this site occurred before environmental issues became a national issue</p>	<p>The subject land has been zoned for industrial development for many years, well before the landscape report. The</p>

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No.	ISSUE	COMMENT
	Why did Council rezone the land when aware of Landscape report recommendations for critical scenic value and maximum protection?	proposal is consistent with Council's Strategic plan, subject to the proposed consent conditions.
<b>27</b>	<p><u>Earthworks</u></p> <p>The scale of the development is not warranted when the extent of earthworks required is considered</p> <p>Placement of thousands of tonnes of excess spoil is likely to have considerable effect on Lot 55 and others nearby and general environment. The DA does not address management of this.</p>	It is not feasible to establish an industrial area on land of these topographical characteristics without substantial earthworks. The impacts of proposed earthworks have been addressed in subsequent information requests, peer review and report to Council.
<b>29</b>	<p><u>Premature Development</u></p> <p>Existing unused industrial premises in the Shire should be used before such a development occurs</p>	The issue of industrial land demand is addressed in the report to Council. There is an established demand for creation of additional industrial lots, and this is consistent with Council's Strategic plan.
<b>30</b>	<p><u>Use of Public Funds</u></p> <p>Use of proceeds of the land sale for the new Art Gallery is a waste of public funds</p> <p>Provision of water and sewer to the site should be funded by the developer, not by ratepayers</p> <p>What ratepayer costs are incurred for service provision and upgrading?</p>	These matters are separate from determination of this development application by Council in its role as Consent Authority. That role is a separate function to Council's role as a landowner. The key issue on the assessment process is that certain conditions must be complied with before release of the Subdivision Certificate.

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### 4.2. Second round:

The amended application was placed on exhibition for public comment during the period 8 October to 7 November 2003. Copies of the application were also referred to DIPNR, EPA, Police Firearms Registry and Rural Fire Service. The following responses were received from Government agencies and the community:

#### DIPNR:

DIPNR initially submitted a "Stop the Clock" notice during the exhibition period, which requested additional information regarding acid sulfate soils and an Acid Sulfate Soils Management Plan. Following discussions between the applicants' geotechnical consultant and DIPNR staff, the applicants submitted the Maiden Geotechnics Acid Sulfate Soils and Groundwater management Plan dated November 2003. DIPNR subsequently advised by letter dated 11 December 2003:

- As the proposal will no longer be intersecting the groundwater an Aquifer Interference Licence under the Water Act will no longer be required and therefore the proposal is not Integrated Development (In terms of that Act).
- The November ASS and Groundwater Management Plan is generally adequate, but it is recommended that Council considers a number of specified technical matters in any consent conditions.

The matters raised in DIPNR's advice are addressed in the report of Council's Environmental Health Officer.

#### Rural Fire Service:

RFS has confirmed that a Bush Fire Safety Authority is not required for this development. Under Section 79BA of the Environmental Planning and Assessment Act, Council is unable to consent to this application unless it either is satisfied that the development complies with *Planning For Bush Fire Protection 2001*, or it has consulted with RFS. RFS was consulted and advised that, as the site contains areas likely to be considered bush fire prone, minimum provisions of *Planning For Bush Fire Protection 2001* are recommended. The recommendations include:

- Construction Standards of AS3959 "Construction of Buildings in Bush-Fire Prone Areas" do not apply.
- Access to the subdivision is to comply with *Planning For Bush Fire Protection 2001* Section 4.3.
- Water supply (eg hydrants and boosters) are to comply with the relevant Australian Standard.

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- Adjacent to areas of bushland greater than 1 hectare a 20 metre APZ in the form of an Inner Protection Area and a perimeter fire trail are to be provided.

The applicants were advised of RFS's requirements by letter of 24 November 2003, but have not provided comment. The advice and recommendations have been discussed with RFS staff. On that basis the following action is recommended:

- Access: Wardrop Valley Road provides ample access for normal operations. Section 4.3.4 of *Planning For Bush Fire Protection 2001* specifies that at least one alternative access road needs to be provided for individual dwellings or groups of dwellings more than 200m from a public through road. In this case, within the Industrial 4(a) Zone various dwellings are permissible with Council's consent, including Bed and Breakfasts and Caretakers' Dwellings. All of the proposed industrial lots other than part of Lot 5 are further than 200 metres by road from Wardrop Valley Way, which is the only public through road providing access to the development. Furthermore, access from the new lots to Wardrop Valley Road is physically constrained by the proposed excavation batter and earthworks. Consequently, conditions are proposed prohibiting the erection of any habitable dwelling on all proposed new industrial Lots, and requiring a Restriction as to User to be entered on Title of all affected lots to that effect to ensure that potential purchasers are alerted to the restriction.
- Water Supply: A condition is proposed requiring the reticulated water supply to the subdivision to meet the requirements of the relevant Australian Standard for fire fighting purposes.
- APZs: Review of the site aerial photograph from Council's GIS confirms that the surrounding lands are primarily pasture and sugar cane lands. RFS staff have confirmed that in those circumstances a 20m APZ and perimeter fire trail are required. Wardrop Valley Road serves that purpose along the northern boundary of the proposed subdivision, but the APZ and fire trail will be required on all other lots where the boundary adjoins the farm lands. RFS staff have confirmed that the proposed landscaping along the edge of the development will be acceptable within the APZ. The fire trail should be located between the landscaping and the future industrial buildings. Provision will need to be made for fire fighters' access to the fire trail. Because of the need for detailed evaluation and design for these facilities, a Deferred Commencement condition is recommended.

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### EPA:

EPA advised:

- The proposed development will not be a scheduled activity and will not require an Environment Protection Licence from Department of Environment and Conservation (DEC).

Comment: Consequently, the proposal is not Integrated Development.

- The applicant's new submission does not address all the matters raised in EPA's previous correspondence.

Comment: All relevant matters required by Section 79C of the Environmental Planning and Assessment Act have been addressed in this evaluation.

- The information provided on minimising air borne dust emissions is general only and does not contain details of proposed control measures and/ or monitoring.

Comment: A condition requiring the preparation of a Dust management Plan is included in the recommendation.

- The information does not include the requested noise impact assessment and therefore comment cannot be made regarding potential impacts of offensive noise on residents.

Comment: EPA has advised that this development is not a scheduled activity. TSC has assessed the acoustic reports received in Dec 2003 and February 2004, as discussed in this report.

- No details of sediment basin size calculations were provided, so comment cannot be made on this issue.

Comment: Council's Development Engineer advises:

*"Detail is provided on Plan No. A1-111-03 and A1-111-04 prepared by Richard Harry. The detail is insufficient in meeting the requirements of council. Deferred conditions of consent have been recommended."*

- Council should also assess:
  - The applicant's proposal to dam watercourses to create sediment dams;

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Comment: Council's Development Engineer advises:

*"No evidence of damming watercourses has been identified on the plans provided. Detail provided indicates all overland flows shall be collected and transported and disposed of in an appropriate manner."*

- There is no assessment of volume, transport method, storage or disposal of groundwater from the loading operations on the low lying areas.

Comment: These issues are now addressed in the applicant's November 2003 ASSMP. Council's Development Engineer advises:

*"Water generated on site is to be treated by liming prior to discharge into the nominated stormwater system."*

- There is potential for iron in the existing groundwater to form slimes when exposed pH changes and during storage in open sedimentation ponds. Wastewater discharged from the ponds should be monitored for total Iron, Chloride, Sulphite, Salinity, Total Dissolved Solids, pH and dissolved Oxygen. Limits on these pollutants should be based on Council's requirements for receiving waters or ANXECC 2000 guidelines. Wastewater monitoring should be undertaken before discharge and wastewater reuse should be required to minimise dust emissions, assist revegetation and minimise potential for discharges during storm events.

Comment: This matter is dealt with by a recommended condition dealing with acid sulfate soils that requires a monitoring schedule, including details on parameters, locations, threshold limits and the like.

- The applicant's proposal to discharge from horizontal drains directly to a local creek should be reviewed to ensure it does not cause pollution of the creek.

Comment: Council's Development Engineer advises:

*"Stormwater management shall require all waters to be directed to a constructed wetland to manage water quality prior to discharge to any natural watercourse."*

- The proposal to hydromulch/hydroseed the drainage reserve should be reviewed if this method of erosion control is proposed during construction.

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Comment: Council's Development Engineer advises:

*"The process is acceptable following landforming to promote vegetation of denuded areas. Erosion control measures remain in place until such time as full vegetation is achieved."*

Police Firearms Registry:

The Police Firearms Registry did not respond in writing to the second round exhibition, but the Registry's Range Officer was involved in negotiations between the Pistol Club, the developer and Council. He provided specific advice on the Registry's requirements for the necessary upgrading at the club and has furnished written concurrence to the applicant's proposals to undertake work at the pistol club as part of the development application.

Community submissions:

Thirty three submissions were received from the community as a result of the second round public exhibition. Issues raised in those submissions, and comments thereon, are précised in Appendix B (see table below).

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### *Appendix B – Issues raised in round 2 exhibition*

No	ISSUE	COMMENT
1	<p><b>Site Suitability</b> The application’s need to change landscape using cut and fill contravenes best practice principles.</p> <p>The access road to the site is flood prone and can be cut off for several days at a time.</p> <p>Requirement for 1.5million cubic metres to be cut from hills to fill valleys is contrary to Council’s policy on industrial land, which states that land needs to be suitable for that purpose. Council’s policy on industrial land states that land should be immediately accessible to highway or main arterial roads.</p> <p>What are the implications for the development in regard to the “fall-out zone” from the pistol club?</p>	<p>Council has consistently identified and zoned this land for industrial purposes over a long period of time. Industrial development cannot feasibly occur on land with these topographical characteristics without substantial earthworks.</p> <p>Council’s Development Engineer advises <i>“At times Lundberg Drive is affected by flood waters. By this time extensive areas throughout the shire and region are also affected. It is considered rare that this link road would be cut in isolation to other roads. As such the impact of such hazard is minor given the extent of flooding”</i>.</p> <p>Council’s Industrial Land Investigation Report is the result of a planning study undertaken in 2000. The criteria used for the different types of commercial and industrial land are desirable criteria by which potential sites identified in the report were reviewed. Council does not have an industrial lands buffers policy at this time. The report in question relates to potential new industrial areas and not to existing industrial zoned land.</p> <p>Issues relating to the pistol club have been addressed in the amended DA to meet the requirements of the NSW Police Firearms Registry.</p>
2	<p><b>Pollution</b> How will council ensure that no ‘after hours’ polluting practices occur, eg burning off on site.</p> <p>Chemical testing for contamination from old council</p>	<p>Council’s rangers work outside normal working hours including weekends. Otherwise TSC will respond to complaints as required.</p> <p>Additional assessment confirms that contamination issues have been adequately</p>

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No	ISSUE	COMMENT
	impounding yards is inadequate	addressed.
<b>3</b>	<p><b>Community Consultation/Exhibition</b> Acoustics report was not on display at Tweed Shire Council for much of DA exhibition and so was not able to be viewed by many interested parties – should at least be a re-advertising of DA and extension of time for lodging objections.</p> <p>All households should be notified, not just neighbours. Exhibition period should be 2 months. Scale 3D model should be exhibited.</p>	<p>The acoustic report was received separately after the other material submitted by the applicants and was inadvertently omitted from the initial part of the exhibition. Once that was discovered, Council notified potentially affected landowners, furnished them with a copy of the report and extended the period for receipt of submissions on the noise report by 10 days.</p> <p>The application was advertised in accordance with Council Policy and DCP 42.</p>
<b>4</b>	<p><b>Ethics and Procedures</b> Arrangement for land sale subject to Council consent is not how free market works. Offer for land sale should be made public, and decided on best proposal for development.</p>	This matter is not relevant to determination of this DA
<b>5</b>	<p><b>Geotechnical and ASS issues</b> Both original and new geotech reports highlight critical inadequacies re soil characteristics, soil improvement techniques and compaction suitability. Geotech report considers pre-treatment by fill inappropriate due to need for deep building foundations,</p>	Proposed amended earthworks arrangements and recommended consent conditions are designed to ensure that geotechnical, earthworks and landfill activities are acceptable. Ongoing monitoring is required.

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No	ISSUE	COMMENT
	<p>extensive settlement time between earthworks and services/ road construction, large settlements (0.5m to 2m) with resultant potential structural damage, settlement problems related to soft clay profiles, low lying wetlands unlikely to achieve full consolidation.</p> <p>Although the report recommends pre-loading, variation in soil characteristics means that exact conditions cannot be modelled in practice. Report advises that actual magnitude and duration of settlement may deviate significantly from the predictions. Success of techniques proposed could also deviate significantly from predictions, consequently imperative that trials are undertaken before implementation.</p> <p>Geotech report advises of potential for long settlement period if drainage paths not provided, but states conventional vertical drains may not produce desired results due to costs and soil profile. Consequently a new method is proposed involving horizontal drains, but report raises uncertainties re construction techniques and feasibility and recommends trials before adoption.</p> <p>Proposed drainage trenches to 3m depth through soft clays would be ineffective as test results indicate 60 soft clay sites</p>	<p>Development is to be staged with settlement predictions tested in early stages.</p> <p>No drainage now proposed. Monitoring to be required during staged development to measure any heaving of land adjacent the pre-loaded areas.</p> <p>Drainage now deleted</p>

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No	ISSUE	COMMENT
	<p>with depths &gt;3m and up to 8m.</p> <p>Original report recommended against geofabric around gravel in trenches unless smear resistant fabric can be found, but new report recommends geofabric.</p> <p>If trench gravels are not enclosed in fabric they will be contaminated by soft clays and will become ineffective.</p> <p>Excavation of proposed deep-seated horizontal drains to 500mm wide and additional larger main drains will destabilise soil and expose ASS.</p> <p>Geotech report advises bulk earthworks to rid site of unsuitable material may not be feasible or economically viable, may be impractical due to environmental considerations, may create difficulty in finding disposal sites and may raise acid sulfate soils concerns.</p> <p>Screening tests show critical levels of PASS at the site</p> <p>The ASS Management Plan's statement that excavation at low lying areas is kept to minimum is incorrect due to the application's extensive excavations, drainage and water storage proposals.</p> <p>Applicant's ability to implement the ASS management plan may</p>	<p>Geofabric only to be provided as bridging layer over existing low-lying land surface prior to filling. Not used for drainage application.</p> <p>Trench no longer proposed</p> <p>Drainage now deleted</p> <p>Amended arrangements and recommended consent conditions ensure earthworks do not create adverse environmental impacts.</p> <p>Minimal disturbance of ASS proposed. Any minor disturbance to be managed and neutralised with lime.</p> <p>ASSMP notes minimal disturbance of ASS and containment with treatment of soil and leachate prior to any discharge</p> <p>Bunding of site will provide water storage and reduce excavation of ASS. Adequate</p>

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No	ISSUE	COMMENT
	<p>be limited by weather conditions, eg flooding</p> <p>DCPs 16 &amp; 47 should still apply even though they came into force after DA lodged.</p>	<p>storage available for rainfall events. ASS leachate a problem during rise and fall of smaller events.</p> <p>DCP 47 does not apply to industrial development. DCP 16 controls in place at time of lodgement have been applied, in accordance with Council's resolution.</p>
6	<p><b>Water and Energy Usage</b> Considering recent shortages, water and energy saving conditions should apply to the site</p>	<p>These issues will be addressed in DAs for construction of developments on the resultant industrial lots</p>
7	<p><b>Visual Impact / Tourism</b> 1995 Tweed Shire Scenic Landscape Evaluation for Tweed Shire Council recommended proposed development site be given maximum protection for visual landscape values and features.</p> <p>The views to and around this site are a tourist attraction and their loss may impact negatively on this important clean industry</p> <p>The development's visual impact, including landform changes, concrete and corrugated iron, will have a negative effect on the amenity of the residents</p> <p>Strongly disagree with developer's statement that "The site is not visually prominent from any public areas and site rehabilitation and landscaping will mitigate visual impacts".</p> <p>Request council imposes a covenant covering building materials and colours to ensure</p>	<p>See "Visual Impact" comments in Section 5 below. Visual impact issues are resolved satisfactorily by the proposed consent conditions.</p> <p>See "Visual Impact" comments in Section 5 below. Visual impact issues are resolved satisfactorily by the proposed consent conditions.</p> <p>See "Visual Impact" comments in Section 5 below. Visual impact issues are resolved satisfactorily by the proposed consent conditions.</p> <p>See "Visual Impact" comments in Section 5 below. Visual impact issues are resolved satisfactorily by the proposed consent conditions.</p> <p>This application is for subdivision only. This issue will be addressed with future DAs for development on the site.</p>

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No	ISSUE	COMMENT
	<p>buildings do not 'stick out'.</p> <p>Proposed 2.4m high 'acoustic barrier' treatment of existing house in Wardrop Valley Road would be an eyesore and would block views</p> <p>Koala Wanderers' internationally accredited long distance walking track passes the site, accommodating local and overseas guests walking from Gold Coast to Rainforest. Support objections against loss of rare space in already well-developed industrial zone.</p>	<p>The owner of the affected dwelling agrees to acoustic barrier arrangements.</p> <p>The site has been zoned for industrial development for many years.</p>
<b>8</b>	<p><b>Traffic and access</b></p> <p>Existing road infrastructure servicing the site is unsuitable for the estimated traffic increases and types. Need to address impact of increased traffic, including heavy vehicles for construction and development stages.</p> <p>Need to consider alternative, less intrusive access to the site.</p> <p>Inadequate assessment of traffic impacts on roads other than Wardrop Valley Road.</p> <p>Need for extensive transport and traffic impact assessment for near future and longer term, addressing safety, wear and tear,</p>	<p>This matter is addressed in Section 4.4 of the report to Council, and has been resolved satisfactorily.</p> <p>Council's Traffic and Transport Engineer advises that, subject to the recommended conditions, the access as proposed by the development application is acceptable.</p> <p>The TTM report has provided an assessment of the broader road network. Council's Traffic and Transport Engineer advises that the existing road network has ample capacity for the additional traffic proposed.</p> <p>Council's Traffic and Transport Engineer advises that the existing road network has ample capacity for the additional traffic proposed. Noise is addressed in the report</p>

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No	ISSUE	COMMENT
	<p>noise pollution and other amenity impacts on Tweed Valley Way residents.</p> <p>Need to consider cumulative traffic impacts from proposed Condong regeneration plant, Wardrop Valley Industrial Site, Boral etc. Strategic infrastructure planning should include an industrial access road east of Tweed Valley Way servicing at least the three above named developments</p> <p>Wardrop Valley Road becomes flooded for days at a time. Development would divert traffic during flooding via Ferndale Road and alternate access roads which are inadequate for heavy vehicles.</p> <p>What is the projected increase in usage levels to and from Murwillumbah airport and what will be done to ameliorate associated noise pollution?</p> <p>Suggested alternate entrance and access route, by extending Quarry Rd in south easterly direction over southern end of tip and western side of pistol club to join proposed estate, keeping traffic in existing industrial area and avoiding safety and noise issues of routing through a residential area. Further alternate entry could be gained via Council's refuse depot, past the Tip shop and behind the</p>	<p>to Council.</p> <p>Council's Traffic and Transport Engineer advises that traffic growth has been included in the assessment undertaken by TTM.</p> <p>Council's development Engineer advises <i>"this is considered unlikely. The broader region remains affected by flooding as well"</i>.</p> <p>Council's Development Engineer advises <i>"Murwillumbah airport is considered to generate minor commercial transport activities. Any measurable quantity of commercial air transport would be from Coolangatta"</i>.</p> <p>The application as submitted has been assessed and the proposed access roads are acceptable subject to the recommended conditions. Council's Development Engineer advises <i>"This identifies adjoining land not subject to the development application and not considered applicable to the application"</i>.</p>

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No	ISSUE	COMMENT
	<p>Pistol Club. Further alternate road access option is via existing Crown Road Reserve that extends from the development site, connecting to Tweed Valley Way via Buchanan Street.</p> <p>Right turn into Pistol club should be addressed in amended DA.</p> <p>Proposed T intersection directly affects residence driveway, causing safety and access concerns. Children wait for &amp; catch school bus here.</p> <p>Increase in road maintenance costs to council.</p> <p>Unsuitability of hilltop for T-intersection</p> <p>Increase in heavy vehicles creates negative impacts on adjacent residents and safety, eg children's ability to ride horses.</p> <p>Objections were not raised to quarry DA No. 3120/85Pt3 because proper traffic,</p>	<p>Appropriate conditions of consent are included in the recommendation.</p> <p>Appropriate conditions of consent are included in the recommendation.</p> <p>Maintenance costs of Council managed public roads and dedicated roads are borne by Council in its role as a roads authority. Where road construction is provided by developers, a 6 month maintenance period applies, during which the developer retains responsibility.</p> <p>Council's Development Engineer advises that the amended intersection layout is acceptable.</p> <p>The increased urbanisation and traffic generation in the locality resulting from construction activity and subsequent industrial development on the site will inevitably impact on activities such as horse riding on the affected roads. Conditions recommended by Council's Traffic and Transport Engineer are aimed at ensuring adequate road and safety standards to accommodate the proposed development.</p> <p>Council's Traffic and Transport Engineer advises that the proposed access and traffic arrangements are acceptable.</p>

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No	ISSUE	COMMENT
	<p>environmental and noise controls were applied, including requirement for 3 separate entry/exit points serving only 40-50 vpd, compared to this DA 5000 vpd.</p>	
<p><b>10</b></p>	<p><b>Noise Pollution</b>                      Disappointing that acoustic report's statement of days and dates of noise logging "do not correspond with the correct dates".</p> <p>Acoustic report advises it is not possible to comply with the noise limit criteria of The Industrial Noise Policy due to the rural location and the low background noise levels.</p> <p>Hills into &amp; out of site will cause extra traffic noise, eg exhaust braking and low gear revving. Negative impacts on adjacent residents and safety, eg children's ability to ride horses on adjoining land.</p> <p>Inappropriate night time noise levels in the vicinity of residences would be generated, particularly by suggested transport depot type operation</p> <p>TTM confirmed that acoustics</p>	<p>Correct details are provided in the amended TTM acoustic report.</p> <p>The Policy is a guideline to assess scheduled premises under the Protection of the Environment Operations Act 1997. This operation is not scheduled. The guideline may assist local government in assessing large industrial developments. The Policy notes that noise is only one consideration; Economic and social worth are relevant issues also.</p> <p>Additional noise from increased urbanisation and traffic generation in the locality resulting from construction activity and subsequent industrial development on the site will inevitably occur. Traffic increases will impact on activities such as horse riding on the affected roads. Conditions recommended by Council's Traffic and Transport Engineer are aimed at ensuring adequate road and safety standards to accommodate the proposed development.</p> <p>Recommended conditions ensure no construction noise would be allowed at night. Future industrial applications will be subject to evaluation at that time.</p> <p>Acoustic impacts have been addressed in</p>

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No	ISSUE	COMMENT
	<p>report does not address Wardrop Valley Rd below the new intersection</p> <p>The acoustic report was only preliminary and full impact could only be calculated when types of industries located in development are identified.</p> <p>Acoustic report's recommendation that proposed industrial buildings will require acoustic treatment and restrictions will be needed on external plant and equipment is critical of site's appropriateness</p> <p>Acoustic report concludes that noise pollution exceeds recommended maximum levels, will be detrimental to neighbouring properties</p> <p>Acoustic report concludes that in event of exceeding maximum noise levels substantial benefits need to be demonstrated in other areas including social worth. Any social worth is negated due to impacts on road safety, unsustainable traffic movements on local roads, increased congestion, increased road maintenance costs and inappropriate development of land of highest scenic quality</p> <p>Acoustic report's proposal for acoustic treatment of private houses, including 2.4m high 'acoustic barrier' not acceptable</p>	<p>amended TTM report and report to Council.</p> <p>Modelling was provided in the acoustic report to indicate likely noise levels with certain activities. Predictions are based on worst case locations and typical operations</p> <p>Treatment of buildings will depend on final use and location in relation to noise receivers, and is common practice in industrial areas. The site has been zoned for industrial development for many years.</p> <p>Recommended maximum levels are guidelines only. Management measures are proposed.</p> <p>Need to balance likely noise emissions with other benefits. These issues are addressed in detail in the report to Council</p> <p>The dwelling concerned is on land that is zoned industrial and is a special case. The affected landowner has agreed to management measures.</p>

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No	ISSUE	COMMENT
	<p>Noise levels from additional traffic generated by the development, estimated at 5000 vpd including 1000 heavy vpd, would be detrimental to amenity and quiet enjoyment of existing residents in Wardrop Valley Road</p> <p>Objections were not raised to quarry DA No. 3120/85Pt3 because proper controls were applied, including noise buffers using bunds and earth walls</p>	<p>Traffic noise is addressed in amended acoustic report and in report to Council</p> <p>Noted</p>
11	<p><b>Flood levels and Drainage</b> Increased flooding risks to existing businesses, farms and residences from changes to water flow from extensive filling of valleys and flood plain</p> <p>Existing road access to the site is subject to flooding, sometimes for days at a time</p>	<p>Council's Development Engineer advises <i>"Detailed assessment advises minimal impact on adjoining lands"</i>.</p> <p>Council's development Engineer advises <i>"See previous comments. The broader region remains affected by flooding as well"</i>.</p>
12	<p><b>Destruction of lifestyle</b> Peaceful rural-residential lifestyle of residents in vicinity would be seriously altered by increased noise, dust, traffic levels etc.</p>	<p>Changes to rural character are inevitable with change from rural to industrial. Addressed in report to Council</p>
13	<p><b>Impact on Property values</b> Concern for a lowering of residential property values caused by development and associated noise, traffic and visual impact</p>	<p>The site has been zoned for industrial purposes for many years. This information was publicly available to potential purchasers.</p>
14	<p><b>Pistol Club Impacts</b> Request that upgrades to 'Safety Range' status for Pistol Club (made necessary by development) to be included in</p>	<p>This is now addressed in the DA, to the satisfaction of the NSW Police Firearms Registry</p>

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No	ISSUE	COMMENT
	amended DA and costs of upgrade to be met by developer.	
15	<p><b>Separation from rural development</b>                      No objection, provided:</p> <ul style="list-style-type: none"> <li>• a 50m wide vegetation buffer planted along entire length of Wardrop Valley Rd</li> <li>• Developer registers Section 88B Instrument restricting any construction on blocks fronting Wardrop Valley Rd to building envelope</li> <li>• Prohibit access from subdivided lots to Wardrop Valley Rd.</li> </ul>	<p>Appropriate bunding and landscaping are proposed along Wardrop Valley Road. A condition is recommended prohibiting direct access to Wardrop Valley Road from adjoining industrial lots.</p>
16	<p><b>Support for development on grounds</b>                      Diversification of economic base leading to future sustainable economy</p> <p>Murwillumbah will stagnate if industrial land is not provided quickly</p> <p>Based on research data the development will create &gt;750 jobs during construction and minimum 2827 jobs when operational</p> <p>If a site were developed elsewhere around Murwillumbah the same traffic impact on Tweed Valley Way would result</p> <p>B-Doubles are no wider than a</p>	<p>Economic issues are addressed in Section 5 below in relation to Social and Economic Impacts</p> <p>Economic issues are addressed in Section 5 below in relation to Social and Economic Impacts</p> <p>Economic issues are addressed in Section 5 below in relation to Social and Economic Impacts</p> <p>Agreed</p> <p>Agreed</p>

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No	ISSUE	COMMENT
	<p>normal truck, have better turning circles and carry larger load, potentially reducing traffic numbers.</p> <p>A big distribution centre is not likely here as research indicates Tweed/ Murwillumbah are not ideal locations</p> <p>NSW government policy precludes industrial development adjoining or in visual catchment of motorway. Other alternative sites are constrained by distance to water, sewer and transport and consequently uneconomical to develop.</p> <p>Soil works will bury PASS</p> <p>Scenic amenity not affected because development is below roads and ridges</p> <p>Development will not affect residents of Fernvale area as they do not pass the site and are screened from view by trees and topography.</p> <p>Appropriate zoning for development. Zoning has been reassessed 3 times in the past 15 years and people who have moved in during that time were aware of the zoning</p> <p>Projected traffic estimates are one quarter what they were before the Pacific Highway upgrade</p>	<p>Future landuses will be subject to the relevant statutory and approvals processes</p> <p>Council is continuing to pursue identification of alternative sites</p> <p>Agreed, this would be an environmental benefit</p> <p>Addressed in report to Council re Landscape and Visual issues</p> <p>View to site from Wardrop Valley Road will be effectively screened by proposed bunding and landscaping.</p> <p>The subject land has been zoned Industrial at least since January 1988.</p> <p>Traffic and Transport Engineer advises traffic and road network issues are acceptable subject to recommended conditions</p>

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No	ISSUE	COMMENT
	Noise level issues will be dealt with by TSC in individual DAs	Noise issue is significant, dealt with in report to Council
	Noise not an issue as most industrial estate businesses operate in normal business hours.	Noise issue is significant, dealt with in report to Council
	Intermittent flooding is a fact of life on the Tweed, and the old Pacific Highway used to flood.	Agreed
	Tweed Valley needs industrial growth to cope with projected population increases and high unemployment rates	Economic issues are addressed in report to Council
	The development will put a stop to lost opportunities from industries that are unable to locate in the Tweed because of lack of suitable industrial estate.	Economic issues are addressed in report to Council
	Will compensate for job losses from decline in agricultural industries	Economic issues are addressed in report to Council
	The developers are locals with a proven track record having developed the existing industrial estate which is full	Council's investigations confirm that additional industrial land is needed in the locality and region
	Local company needs to expand and will relocate to new estate. If it does not proceed the company will have to relocate leading to a loss of 20 present jobs.	Council's investigations confirm that additional industrial land is needed in the locality and region
	Developer should not have to fund road and services construction outside the estate	Recommended conditions require payment of contributions and external works completion before release of Subdivision

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No	ISSUE	COMMENT
	boundaries. These costs should be borne by Council, which can recoup from new industries establishing in the industrial estate.	Certificate

### 4.3. Community Meeting

A community meeting was held at Fernvale hall on Tuesday evening 29 October 2003 to facilitate community discussion and understanding of the amended development application. Approximately 70 people attended the meeting, which was chaired by Council's planning consultant.

The mayor attended and answered a number of questions on behalf of Council. Council's Manager Development Assessment explained the process adopted by Council for this application and answered a number of questions related to Council's planning functions, policies and strategies.

The applicants and some of their specialist consultants attended and responded to various questions regarding the development application.

Issues raised at the meeting, and comments thereon, are précised in Appendix C (see table below).

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### Appendix C – Issues raised at Community Meeting

No.	ISSUE	COMMENT
	<b>A. TRAFFIC AND ACCESS</b>	
1	Define the specific location of the proposed new access road off Wardrop Valley Road	The applicants have submitted an aerial photograph depicting the precise location of the access point. This is subject to amendments proposed to accommodate pistol club. Copies have been furnished to adjoining residents.
2	Traffic impacts, capacity, safety and upgrading requirements in Wardrop Valley Road	Council's Traffic and Transport Engineer advises road network and traffic impacts are acceptable subject to the proposed conditions
3	Traffic impacts, capacity, safety and upgrading requirements between the Pacific Highway and Wardrop Valley Road	Council's Traffic and Transport Engineer advises road network and traffic impacts are acceptable subject to the proposed conditions
4	Traffic impacts, capacity, safety and upgrading requirements in wider area, eg towards Tumbulgum and in/ around Murwillumbah	These issues have been investigated. Council's Traffic and Transport Engineer advises road network and traffic impacts are acceptable subject to the proposed conditions
5	Loss of traffic benefits gained from Pacific Highway bypass due to increase in traffic from this development, including trucks and B-Doubles	Council's Traffic and Transport Engineer advises the existing road network has ample capacity for additional traffic as a result of the bypass
6	Consider alternative road access options, including Quarry Road, Quarry Hill, former road connecting Wardrop Valley Road across Condong creek to Palmvale Road, Smarts Road; through Southern end of Wardrop Valley/ Old Pacific Highway; From other side of the old tip site.	Council's Traffic and Transport Engineer advises that alternative routes nominated are not considered applicable to the application.
	There is a need for a coordinated approach to	Traffic assessment has been undertaken by TTM and evaluated by Council's

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No.	ISSUE	COMMENT
	traffic planning for the Quarry Road/ Lundberg Drive/ Wardrop Valley Road locality, as current infrastructure and capacity are inadequate	Traffic Committee and Traffic and Transport Engineer. Upgrading of areas of concern has been recommended.
7	Who pays for the required road upgrading and maintenance?	This report deals only with assessment of the development application, and is "at arms length" from Council's role as owner and vendor of part of the land. The issue of "who pays" is a contractual matter between the parties and is necessarily separate from the DA assessment process. The recommendations herein require the necessary road construction work to be undertaken prior to issue of Subdivision Certificate. Consequently the subdivision plan cannot be registered until the roadworks are completed. Maintenance costs of Council managed and dedicated public roads are borne by Council. Where roads are provided by developers, a 6 month maintenance period applies during which the developer retains responsibility.
	If approved, access to new Lots should be only from internal roads and not from Wardrop Valley Road	Access to proposed future industrial Lots is proposed only via the internal roads.
	Council should ensure that road grades are acceptable for trucks, including B-Doubles	Council's Development Engineer advises " <i>These issues have been considered in assessing compliance with DCP 16 and shall be addressed in greater detail at the time of lodgement of a Construction Certificate Application</i> ".
	<b>B. STRATEGIC PLANNING ISSUES</b>	
	What intentions or plans does Council have to expand industrial or other urban development in this locality if this application is	The Mayor advised the meeting that the current Council has no such urban or industrial expansion plans or intentions in this locality.

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No.	ISSUE	COMMENT
	approved?	
	Council's Industrial Land Policy states that industrial development should be located on flood free, level land with minimum 500m buffer to residential development.	Council's Industrial Land Investigation Report is the result of a planning study undertaken in 2000. The criteria used for the different types of commercial and industrial land are desirable criteria by which potential sites identified in the report were reviewed. Council does not have an industrial lands buffers policy at this time. The report in question relates to potential new industrial areas and not to existing industrial zoned land.
	This site should not be zoned or developed for industrial development due to environmental constraints	The site has been zoned for industrial development for many years. Council has entered into contractual arrangements, has received a development application for a permitted development and must assess it according to statute.
	The development should be located close to the Highway deviation.	The site has been zoned for industrial development for many years. Council has received a valid development application for a permitted development and is required to assess it according to statute.
	How much adjoining undeveloped industrial zoned land would remain if this application were approved?	Approximately 4 hectares of land within the Industrial 4(a) Zone would remain to the north of the proposed development, with frontage to Wardrop Valley Road
	What is to prevent expansion of this industrial development if approved?	Any expansion beyond the existing Industrial zoned area would require a new zoning process, with its associated strategic, environmental and statutory obligations
	What other applications for industrial subdivision are presently before Council?	Mr Smith advised the meeting that no such applications are presently before the Council.
	This site was originally zoned industrial to accommodate a proposed brickworks but is not	The site has been zoned for industrial development for many years. Council has received a valid development application for a permitted development

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<b>No.</b>	<b>ISSUE</b>	<b>COMMENT</b>
	appropriate for industrial development	and is required to assess it according to statute.
	Council should consider zoning this site for an alternate use, eg rural residential development or agricultural college	This is a strategic matter that would require extensive investigation. The Council has before it a DA for a purpose permitted with consent in the current zone and is required to assess it according to statute.
	<b>C. GEOTECHNICAL, ACID SULFATE, GROUNDWATER, FLOODING ISSUES</b>	
	Will the development increase flood impacts on other land or other development?	No significant impacts are anticipated. This issue is addressed in the Development Engineer's comments re LEP 2000 Clause 34 in the report to Council.
	Query the environmental acceptability and engineering feasibility of cut/ fill/ pre-loading proposals and groundwater/ sulfate impacts	These issues have been addressed through the ASSMP and peer review process, and via recommended consent conditions. See report to Council.
	What will happen to material used for pre-loading once it is no longer needed on the site?	The application proposes that cut and fill will be balanced on the site and that no removal or importation of material will be required. Council's Development Engineer has recommended a condition requiring provision of a suitable management plan for proposed works.
	<b>D. PROPRIETY AND TRANSPARENCY ISSUES</b>	
	The council should abrogate its responsibility as Consent Authority because of its dual role as owner and vendor of the land, particularly as the sale is subject to issue of development consent.	Council is the statutory consent authority and has appointed an independent planning consultant to assess, report and make recommendations to Council on the development application. Options to totally separate the Council's land owner and consent authority functions include: delegate determination of the application to another person(s) or organisation; or Invite the Minister to consider "calling in"

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No.	ISSUE	COMMENT
		the application for determination by the Minister under S88A EP&A Act.
	Determination should be deferred until new Council is elected	The DA evaluation process has proceeded independent of political considerations
	A poll of ratepayers should be taken to decide if Council should sell the land	Council is a corporate body with responsibility for decisions affecting Council owned land
	Was the land purchase funded from Rate income?	Mr Smith advised the meeting that the land was purchased at a time when Council was actively developing and selling land, using part of profits to fund new purchases
	Have lots in this subdivision already been sold or optioned? Is a transport terminal proposed for the site?	The Council's planning consultant is not aware of such arrangements. Any future development proposal will require the necessary consents and/ or approvals, and will need to be assessed at that time.
	Engineering and other specialist advice should have been outsourced to maintain Council's "arms length" position from the DA evaluation	Engineering and environmental experts from Council, DIPNR and EPA have provided specialist input to the DA assessment. Council also engaged an independent consultant to address geotechnical issues and community concerns regarding the ecological assessment. The Council's planning consultant undertook the final evaluation, having regard to that expert advice, among other matters.
	<b>E. ECONOMIC ISSUES</b>	
	What is the potential job creation resulting from this development	A generic assessment only can be made, as future end users are not yet known. Based on research figures, between 21 and 55 jobs per hectare could be created at the site, with a multiplier factor of 1.99 in the local economy, leading to potentially 2827 minimum new jobs in the area
	Approval would result in reduced land values around Murwillumbah	It has been public knowledge for many years that this land is zoned for industrial purposes

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No.	ISSUE	COMMENT
	Approval of the development would create opportunities for jobs that would benefit the local economy and would provide employment opportunities for young people	A generic assessment only can be made, as future end users are not yet known. Based on research figures, between 21 and 55 jobs per hectare could be created at the site, with a multiplier factor of 1.99 in the local economy, leading to potentially 2827 minimum new jobs in the area
	Many job opportunities would go to people from outside the Tweed Local Government Area	The origin of possible future employees in as yet unknown industries at this site is an issue beyond the scope of this evaluation
	<b>F. COMPLIANCE AND AMENITY ISSUES</b>	
	Will DCP 16 and DCP 47 be applied?	DCP 47 applies to residential development and is not relevant to this application. In accordance with Council's resolution at adoption of DCP 16 amendments, the version of DCP 16 that was in force at the time of DA lodgement has been applied.
	What controls would apply to new, impact-generating developments proposing to locate in the industrial subdivision?	Mr Smith advised the meeting that new developments seeking to locate at the site would require prior development consent. Each such application would be assessed on the basis of its likely impacts. At the date of the meeting (29/10/03) Council has received no applications for specific developments on the site.
	Conflict with highest level classification of this land in Tweed Shire Scenic landscape Evaluation report	Addressed in report to Council
	Setbacks from existing houses should be imposed on new development	Council's standard setbacks will apply
	What recourse do landowners have in the event of damage to property or environmental disturbance arising from	An aim of the assessment process is to avoid unacceptable impacts. Landowners and residents have recourse to the Courts, Council or appropriate government agencies, depending on the

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No.	ISSUE	COMMENT
	construction of the subdivision?	impacts concerned.
	<b>G. OTHER ISSUES</b>	
	Previous agreements between applicants and landowners have not been realised	Private agreements between land owners are not relevant to determination of this application
	An affected landowner was not aware of Council's proposal to change the zoning of his land to Industrial	This is a historical matter, the land has been zoned for many years. This matter is not relevant to determination of this application
	The community meeting should have been held in the Civic Centre	The Fernvale hall venue was requested by local residents' representative as less threatening territory for a meeting of residents
	At least one resident has been asked by another party (not Council) to sign an agreement that seeks to prevent objection to construction impacts	This is a matter between private individuals and is not relevant to determination of this application

### 4.4 Traffic Committee Consultation

The proposed subdivision is Schedule 2 development pursuant to SEPP 11 – Traffic Generating Development. The amended application was referred to the Traffic Committee meeting held on 16 October 2003. The Committee advised:

- There is potential traffic impact and detailed analysis should be performed for the intersections of Tweed Valley Way/ Reserve Creek Road; Reserve Creek Road/ Quarry Road and Quarry Road/ Wardrop Valley Road.
- The section of Wardrop Valley Road that is currently not constructed to industrial standards should be widened to Council's Industrial standard road cross section.
- Roads between the site and Tweed Valley Way are not designed for B-Doubles and approval for a B-Double route cannot be assumed unless a B-Double route assessment is undertaken as part of the DA.
- All internal road grades should comply with Council's road design standards.
- The Wardrop Valley Road extension should be realigned to give priority to Road 1/ Wardrop Valley Road.

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The applicants subsequently provided additional traffic analysis and information, including a detailed traffic analysis undertaken by TTM Consulting. Council's Traffic and transport Engineer Mr Paul Morgan advises:

- *The detailed traffic analysis undertaken by TTM Consulting tabled the existing road network is capable of accepting the estimated traffic generation of the development. Each of the specific nodes identified have raised little concern at this stage however an upgrade of the intersection of Quarry Road and Lundberg Drive has been recommended to cater for any future proposal to allow B-Double vehicles to access the site.*
- *Recommended conditions of consent have been tabled requiring the upgrade of this section of Wardrop Valley Road to meet Councils minimum industrial standard.*
- *The current road network is of a standard capable of accepting B-Double vehicles with the exception of the intersection of Quarry Road and Lundberg Drive and the section of Wardrop Valley Road from Lundberg Drive to the development site. Recommended conditions of consent have required the applicant to upgrade these areas to meet the appropriate standard. Prior to any use of this section of road network by B-Double vehicles an "RTA B-Double Route Assessment" needs be undertaken and application lodged with Councils Local Traffic Committee for approval.*
- *The applicant has provided amended intersection design detail providing priority to the Wardrop Valley Road / Road 1 leg. Further amendment to this design is required to address minimum setbacks to the Murwillumbah Pistol Club Range. Suitable conditions of consent have been provided to address these requirements.*

### 4.5 Pistol Club Consultation

Representatives of the Pistol Club maintained ongoing contact with the Council's planning consultant throughout the DA evaluation and re-exhibition process.

Because the October community meeting inadvertently clashed with the Murwillumbah Pistol Club's Annual General Meeting, a separate meeting was held with the Club's President and Secretary on 31 October 2003. Council's planning consultant and representatives of the applicant also attended the meeting.

As discussed in Section 4.2 above, the Police Firearms Registry's Range Officer, the applicants and the pistol club subsequently agreed on the work necessary to enable the continued function of the pistol club in the event of consent being granted to this application. The applicant has requested inclusion of the necessary works as part of the development application, and an appropriate condition is included in the recommendation.

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### 4.6 Geotechnical Peer Review

Because of the importance of the geotechnical issues related to filling the site to depths up to around 14 metres over low lying, acid sulfate soils bearing land, Council engaged geotechnical consultants Golder Associates to peer review the Maiden Geotechnics Geotechnical report and proposed filling methodology. As a result of that process, the applicant's consultants submitted further geotechnical information. Following review of that additional information, Golder Associates provided further advice and input into formulating Deferred Commencement Consent conditions. Those conditions are designed to ensure that the proposed filling operation will result in a stable landfill and will not create adverse environmental impacts on the site, adjoining lands or the downstream riparian environment.

### 5. EVALUATION

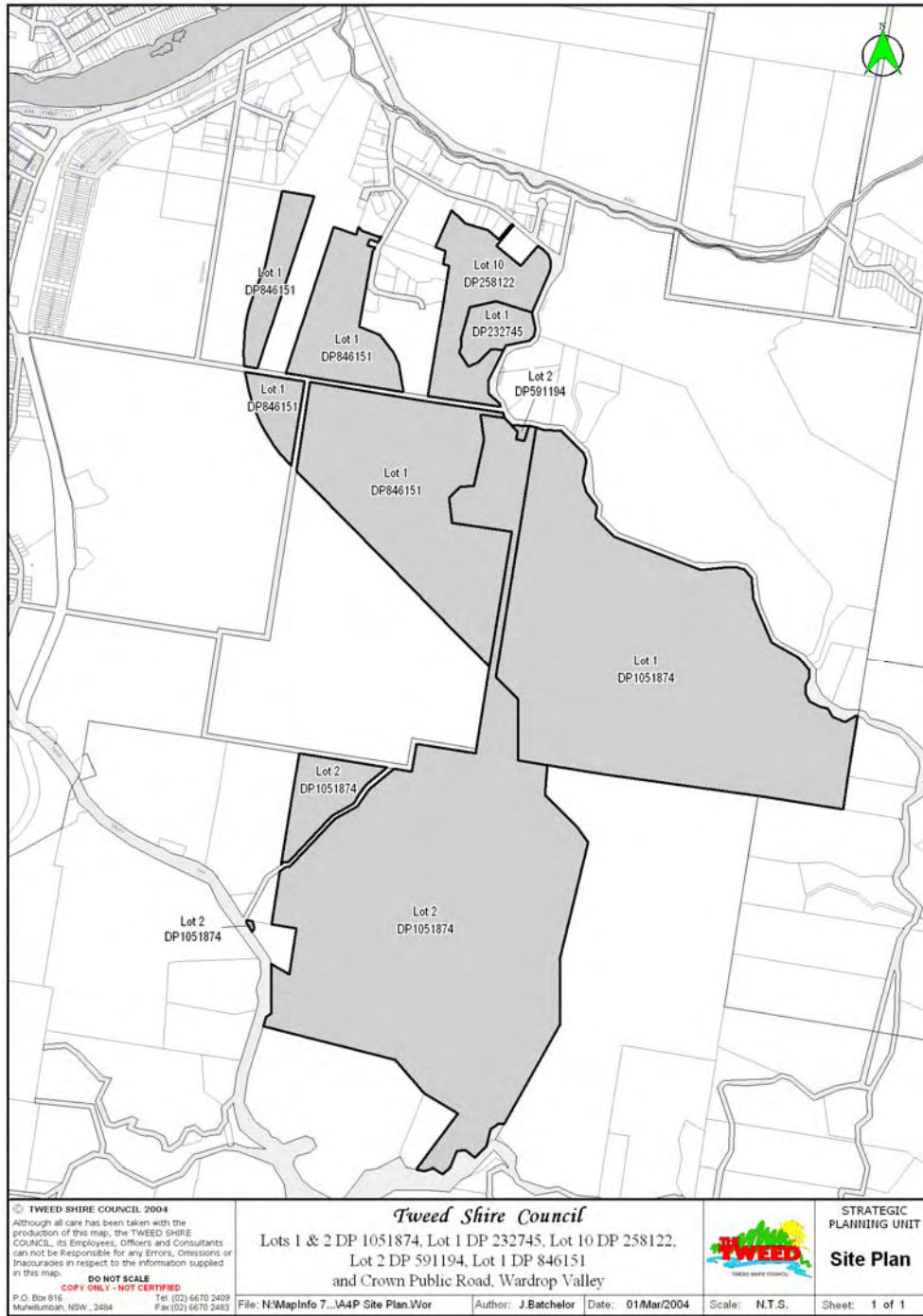
In terms of LEP 2000, the proposed development may be described as subdivision of land, with associated earthworks, civil works, landscaping, widening and upgrading of external roads and works to enable continued operation of the Murwillumbah Pistol Club. The development includes "Urban stormwater water quality management facilities" and "Works for drainage and landfill" as defined by the LEP.

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### SITE DIAGRAM:



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### CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

**Tweed Local Environmental Plan 2000**

The subject land is within Zones 1(a) Rural; 4(a) Industrial; 1(b2) Agricultural Protection; 7(l) Environmental Protection (Habitat); and 5(a) Special Uses under Tweed LEP 2000 (LEP 2000). The following provisions of LEP 2000 are relevant to determination of this application:

**Clause 4 – Aims:**

The provisions of LEP Clause 4 are given effect by Clause 8(1)(b), which is discussed below. Clause 4 specifies that the Aims of the Plan are:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan which was adopted, after extensive community consultation, by the Council on 17 December 1996, the vision of which is:*

*"The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced", and*

- (b) *to provide a legal basis for the making of development control plans which provide more detailed local planning policies and other provisions that provide guidance for future development and land management, such as provisions recommending the following:*
- (i) *that some or all development should be restricted to certain land within a zone,*
- (ii) *that specific development requirements should apply to certain land in a zone or to a certain type of development,*
- (iii) *that certain types or forms of development or activities should be encouraged by the provision of appropriate incentives, and*

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- (c) *to give effect to and provide reference to the following strategies and policies adopted by the Council:*

*Tweed Heads 2000+ Strategy  
Pottsville Village Strategy, and*

- (d) *to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.*

### Comment:

Provided the conditions contained in the recommendation are applied, the proposed development is consistent with the relevant desired outcomes, Shirewide Strategic Principles, Policies and Actions contained in the Tweed Shire Council Strategic Plan 2000+ adopted 17 December 1996. All relevant Development Control Plans have been addressed in this evaluation. The Tweed Heads 2000+ and Pottsville Village Strategies are not relevant to this application. The proposed development will result in the achievement of Council's long term planning objective of establishing providing industrial subdivision lots on land zoned specifically for that purpose.

The proposed development is consistent with the Aims specified by LEP Clause 4.

### **Clause 5 – Ecologically sustainable development**

The provisions of LEP Clause 5 are given effect by Clause 8(1)(b), which is discussed below. Clause 5 states:

*An objective of this plan is to promote development that is consistent with the four principles of ecologically sustainable development. These are:*

- (a) *the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

*In the application of the precautionary principle, public and private decisions should be guided by:*

- (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

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- (ii) *an assessment of the risk-weighted consequences of various options, and*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations, and*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration, and*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
  - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and*
  - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and*
  - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

### Comment:

As discussed in Section 4.6 above, despite DIPNR's support for the proposed earthworks associated with the development, Council engaged Geotechnical consultants Golder Associates to conduct a peer review of the applicant's Geotechnics, Acid Sulfate Soils and Groundwater Management Plan. Part of the reason for the peer review was to address the Precautionary Principle in terms of potential environmental impacts of the proposed filling of low lying lands. The results of the peer review are discussed in Section 4.6.

The proposed development has been thoroughly evaluated and is consistent with the principles of ecologically sustainable development as defined by LEP Clause 5.

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### Clause 8 – Consent considerations

Road widening is proposed within Zones 4(a) and 5(a). As discussed below in relation to Clause 11, road widening is allowed with consent in Zone 4(a) (Item 2 development) and without consent in Zone 5(a). The proposed works associated with the industrial component of the application are "Item 2" development within both Zones 1(a) and 4(a).

LEP Clause 8 provides that Council may grant consent only if:

- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- (b) *it has considered those other aims and objectives of this plan that are relevant to the development, and*
- (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

The Primary and Secondary Objectives of Zone 1(a) as specified by the Table to Clause 11 are:

#### **Primary objectives**

- *to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.*
- *to protect rural character and amenity.*

#### **Secondary objectives**

- *to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.*
- *to provide for development that is not suitable in or near urban areas.*
- *to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.*
- *to provide non-urban breaks between settlements to give a physical and community identity to each settlement.*

The Primary and Secondary Objectives of Zone 4(a) as specified by the Table to Clause 11 are:

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### **Primary objectives**

- *to provide land primarily for industrial development.*
- *to facilitate economic activity and employment generation.*

### **Secondary objective**

- *to allow non-industrial development which either provides a direct service to industrial activities and their work force, or which, due to its type, nature or scale, is inappropriate to be located in another zone.*

### **Evaluation:**

The detailed evaluation provided throughout this report demonstrates that the proposed development is consistent with the nominated aims and objectives, including all relevant aims and objectives of the Plan, and would not have an unacceptable cumulative impact on the community, locality or catchment or on the area of Tweed as a whole.

### **Clause 11 – Zoning Table**

As discussed above in relation to Clause 8, the proposed works associated with the industrial subdivision component of the development are “Item 2” development within both Zones 1(a) Rural and 4(a) Industrial. Consequently, they constitute development which is allowed only with consent.

Road widening is proposed within Zones 4(a) and 5(a). Road widening is allowed with consent in Zone 4(a) (Item 2 development) and without consent in Zone 5(a). No physical construction or work is proposed within Zones 1(b2) Agricultural Protection or 7(l) Environmental Protection (Habitat).

The proposed wider subdivision affects land within Zones 1(a) Rural; 4(a) Industrial; 1(b2) Agricultural Protection; 7(l) Environmental Protection (Habitat); and 5(a) Special Uses. While “subdivision” is defined as “development” by the Environmental Planning and Assessment Act, Clause 11 relates to specifically nominated developments and other “buildings, works, places or landuses” and consequently does not regulate subdivision.

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### Clause 14 – Development near zone boundaries

The objective of clause 14 is:

- *to provide flexibility where detailed investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site.*

In relation to this application, Clause 14 provides in effect that, within 50 metres of the boundary between Zones 1(a) and 4(a), development that would otherwise be prohibited may, with consent, be carried out if the development may be carried out (with or without consent) in the adjoining zone. This is subject to the proviso that the Council must be satisfied that the proposed development is more appropriate, due to planning, design, ownership, servicing or similar criteria, than the development that would otherwise be allowed.

#### **Evaluation:**

As discussed below in relation to SEPP 1, a number of the proposed new industrial lots are located at least partly within Zone No. 1(a) Rural and will have areas less than the minimum 40ha specified by LEP Clause 20(2). However, the applicants have chosen to submit a SEPP 1 objection to that standard rather than rely on LEP Clause 14. Nevertheless, the conditions attached to DIPNR's concurrence to the SEPP 1 objection effectively seek to apply the provisions of LEP Clause 14.

The proposed development is consistent with the Clause objective, subject to the recommended conditions.

### Clause 15 – Availability of essential services

The objectives of Clause 15 are:

- *to ensure that development does not occur without adequate measures to protect the environment and the community's health.*
- *to ensure that development occurs in a coordinated and efficient manner.*

Clause 15 requires that Consent not be granted to the carrying out of development on any land unless:

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- (a) *a water supply and facilities for the removal or disposal of sewage and drainage are available for that land, or*
- (b) *arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities.*

### **Evaluation:**

Services are available to the proposed industrial development. No change is proposed to servicing arrangements for the rural Lots affected by boundary adjustments. Appropriate conditions are proposed.

The proposed development is consistent with the Clause objectives, subject to the recommended conditions.

### **Clause 17 – Social Impact assessment**

The objective of Clause 17 is *to ensure proper consideration of development that may have a significant social or economic impact.*

Clause 17 requires that where Council considers that a proposed development is likely to have a significant social or economic impact in the locality or in the area of Tweed, the consent authority may only grant consent if it has considered a social impact statement in respect of the proposed development. The social impact statement must:

- (a) *identify the likely future impacts of the development and the affected community, and*
- (b) *analyse the impacts in terms of magnitude, significance, duration, effect on current and future conditions and community services, and the like, and*
- (c) *determine and assess possible measures for the management or mitigation of likely impacts.*

### **Evaluation:**

LEP 2000 does not define the term Social Impact Statement, other than by the above-mentioned requirements of subclauses 17(a), (b) and (c).

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DCP 45 – Socio-Economic Impact Assessment defines as one of its purposes:

*To set out Council's requirements for socio-economic Impact Assessments as identified in Clause 17 of Tweed Local Environmental Plan 2000 (DCP 45 Clause 1.4(b)).*

DCP 45 does not define the term Social Impact Statement, but defines "Socio-Economic Impact Assessment" as "... the process of assessing or estimating in advance the social and economic consequences that are likely to follow from a specific development which is presented in a report prepared in accordance with this plan and recommends necessary mitigation measures for the social and/ or economic impacts of a particular development". Section 6 of DCP 45 specifies the matters to be included in a Socio-Economic Impact Assessment.

DCP 45 Clause 4 deals with General Assessment of Social and Economic Impacts. Clause 4.0(b) states:

*"If the development is not specifically identified in section 5.1 but is considered likely to cause significant impacts Council will review the Development Application against the Checklist of Social and Economic Issues (Refer Table 1). This will identify issues and estimate the social and economic impact of a particular Development Application. Council will then consider any issues identified in the checklist and if there are any aspects of the development which may have significant effects, may require the developer to prepare a formal Socio-Economic Impact Assessment to address specified issues".*

The proposed development is not one of the classes of development referred to in section 5.1, however the applicant's SEE deals with Social Impact Assessment (at p7) and includes a Checklist of Social and Economic Issues (Annexure I). The applicant's checklist indicates overall a positive to neutral socio-economic outcome, based on the criteria defined by Table 1. The applicant's SEE states that some adverse social impacts are inevitable particularly during construction, but these can be mitigated and should be balanced against the significant social and economic impacts, including:

- 30 equivalent full time construction jobs over 5 years and 70 indirect jobs, based on Multiplier for Northern rivers Construction Industry.
- Subdivision construction cost \$4.5m.
- Potential 200 later construction jobs in resultant building of industrial developments on site, value \$12m, plus 480 indirect jobs.

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- Potential 920 jobs in subsequent industries located on the industrial estate, with resultant economic benefits in the order of \$50 million, based on the November 2000 Gold Coast Airport Enterprise Park Feasibility Study.

The following comments represent an independent evaluation of the likely social and economic impacts of the proposed industrial subdivision, based on the matters enumerated in DCP 45 Table 1, and having regard to the Industrial zoning of the site:

1. Economic Impacts: The proposal would increase serviced industrial land availability and hence potential for industrial activities and services.
2. Employment: The proposal is likely to increase short construction related jobs and to provide the opportunity for creation of longer term industrial and related jobs following completion. Flow-on multiplier effects will create additional job opportunities. The project is therefore likely to increase access to employment and to have positive impacts on skills and education in related fields in the Tweed area. It is not likely to threaten existing employment.
3. Industrial: Applicant cites potential 30 full time equivalent construction jobs over 5 years, plus multiplier effects during the construction period. Subdivision construction value is cited as \$4.5m by the applicant's SEE.
4. Community Networks: As discussed in this report, noise impacts of the project are likely to decrease residential amenity of dwellings in the locality. Traffic along the access roads to the site will increase significantly, with consequent potential impacts on road users' safety, but is able to be managed in accordance with accepted traffic management guidelines and standards. Creation of industrial "workplace" opportunities is likely to provide social interaction opportunities at the site. As discussed in this report, visual impacts can be managed.
5. Public Realm: No threat to heritage or archaeological sites. Reduces amenity of walking trail (submission received). Overall negative response to consultation from residents of the surrounding locality. Some support for the project arose during the consultation, mainly from TEDC and persons and organisations not located in the immediate locality.

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6. Housing: Table 1 Housing criteria do not apply to industrial development.
7. Human Service Facilities: Creation of opportunities for local jobs (construction and longer term) likely to decrease demand for support/ welfare services.
8. Access: Significant increased volumes of both light and heavy vehicles will require upgrading along existing access roads. Development of job opportunities may lead to improved opportunities for public transport in the longer term.

Because of the significance of the predicted noise levels (discussed in detail later in this report), the applicants were requested to submit a further acoustic evaluation and Social Impact Statement dealing with the noise issues, as enabled by Clause 4.0(b) of DCP 45. Specifically, in terms of social impact the applicants were requested to address the social impact of the proposed exceedence of recommended noise levels on local residents and on occupiers of land in the locality and along the transport route. This was to include the impacts of noise levels during construction and during subsequent operation of the industrial estate, as well as the impacts of traffic noise.

### Evaluation

The applicant's response is contained in the amended Environmental Noise Impact Report (TTM Acoustics, 19 February 2004) and the letter of 23 February 2004 from Darryl Anderson Consulting Pty Ltd. The noise issues and their impacts are discussed in detail later in this report.

The proposed development is consistent with the Clause 17 objectives and provisions, subject to the recommended conditions.

### Clause 19 – Subdivision general

The objective of Clause 19 is *to provide a comprehensive system of planning controls for the subdivision of land in the Tweed local government area.*

In respect of this application, Clause 19 requires that consent be obtained for subdivision, other than for road widening or for creating a public reserve or the like, or a lot for use by a public utility undertaking. Minor boundary adjustment may be carried out with consent notwithstanding that the new lots may not comply with relevant development standards applicable to the zone.

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### Evaluation:

The proposed development is consistent with the Clause objective and provisions, subject to the recommended conditions.

### Clause 20 – Subdivision in Zones 1(a), 1(b), 7(d) and 7(l)

The objectives of Clause 20 are:

- *to prevent the potential for fragmentation of ownership of rural land that would:*
  - (i) *adversely affect the continuance or aggregation of sustainable agricultural units, or*
  - (ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.*
- *to protect the ecological or scenic values of the land.*
- *to protect the area of Tweed's water supply quality.*

In respect of this application, Clause 20 provides that within Zones 1(a), 1(b2) or 7(l) the area of each allotment to be created is to be at least 40 hectares, but that a smaller area may be approved if the Council is satisfied that the allotment will be used for a purpose, other than for an agricultural or residential purpose, for which consent could be granted.

### Evaluation:

The proposed subdivision will result in the creation of Lot 105 with an area of 15.25 hectares and Lot 106 with an area of 4.35 hectares. All other lots within Zones 1(a), 1(b2) or 7(l) will have areas not less than 40 hectares, apart from proposed industrial lots 10 38 39 40 42 43 44 45 46 47 48 49 50 53 and 54 which are addressed below in relation to SEPP 1. Both Lots 105 and 106 will be created pursuant to Clause 19, as they are different from their existing configuration only as a result of road widening.

The proposed development is consistent with the objectives and requirements of Clause 20, subject to the recommended conditions.

### Clause 28 – Development in Zone 7(l) and adjacent land

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Clause 28 provides:

- (1) **Objective**
  - *to protect wildlife habitat from the adverse impacts of development.*
- (2) *Unless it is exempt development, a person must not clear vegetation from, drain, excavate or fill land within Zone 7 (l) except with development consent.*
- (3) *The consent authority must not grant consent to development (other than for the purpose of agriculture, a dwelling house or a home business) on land within Zone 7 (l) without having regard to any representations made by NSW Fisheries and the National Parks and Wildlife Service.*
- (4) *The consent authority must not grant consent to development on or adjacent to land within Zone 7 (l) unless it has taken into consideration:*
  - (a) *the likely effects of the development on the flora and fauna found in the locality, and*
  - (b) *the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, and*
  - (c) *a plan of management showing how any adverse effects arising from the development are to be mitigated.*

Land within Zone 7(l) is included in the development application only because it forms part of a larger Lot 10 DP 258122, which falls within several zones and which is affected by proposed road widening, access and pistol club upgrading works. None of those works affect that part of Lot 10 situated within or near Zone 7(l). No new subdivision boundary extends into or across that part of Lot 10 situated within or near Zone 7(l). The proposed development does not adversely affect wildlife habitat within that part of Lot 10 situated within or near Zone 7(l). Consequently:

- The proposed development is not likely to adversely affect flora and fauna found in the locality.
- The proposed development is not likely to create potential for disturbance of native flora and fauna as a result of intrusion by

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humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing.

- No plan of management showing how any adverse effects arising from the development are to be mitigated is warranted.

The proposed development is consistent with the Clause objectives, subject to the recommended conditions.

### Clause 34 - Flooding

The objectives of Clause 34 are:

- *to minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land.*
- *to minimise the adverse effect of flooding on the community.*

Clause 34(2) provides:

- (2) *Where, in the consent authority's opinion, land is likely to be subject to flooding, then it must not grant consent to development on that land unless it has considered:*
  - (a) *the extent and nature of the flooding hazard affecting the land, and*
  - (b) *whether or not the development would increase the risk or severity of flooding of other land in the vicinity, and*
  - (c) *whether the risk or severity of flooding affecting the development could be reasonably mitigated, and*
  - (d) *the impact of the development on emergency services, and*
  - (e) *the provisions of Tweed Development Control Plan No 5—Development of Flood Liable Land and any other relevant development control plan.*

### Evaluation:

The low lying parts of the site, including part of the area to be filled to create the industrial lots, are subject to flooding. Council's Development Engineer advises:

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*Information available to Council indicates the following characteristics of the 1 in 100 year flood event:*

*Velocity = 0.24 m / sec*

*Depth = 6.36m AHD (Australian Height Datum)*

*During the 1 in 20 year event a depth of 4.19m AHD has been identified on the GIS.*

*Initial detail provided by the applicant raised concern the development may impact on the flood hazard of adjoining land. Additional Detail was provided in the form of Plan No. A1-111-14 prepared by Richard Harry Engineers. The detail provided indicated the full extent of the catchment area and provided calculation advising the proposed filling works would ensure lots created would be above the 1% flood event and have minimal impact on adjoining land. The detail is considered acceptable however the SEE lodged with the application tabled a possible future link road may be constructed linking the development site to the ridge line (Fernvale Road) on the southern side of the valley. Should any application be received for the link road greater detail will be required to demonstrate compliance with Cl 34 of TSC LEP.*

*The land is identified on Councils GIS as being within the data base of DCP 5. Section 8 of DCP 5 refers to the localities of Murwillumbah, Condong and Tumbulgum. Table 8.1 of the plan identifies various flood heights throughout the area. The area specific to the proposed development is not tabled however Councils GIS provides a 1 in 100 yr flood event level of 6.36 both east and west of the site within the valley.*

*Section 8.2 of the plan identifies Development Generally on Flood Liable Land. Issues addressed include filling, structures, fencing, building materials and electricity supply. The proposed development shall meet the requirements tabled for each issue raised.*

*Section 8.4 of the plan identifies Commercial and Industrial Development on Flood Liable Land. The plan tables industrial subdivisions may be approved where it can be demonstrated the proposed development will not adversely affect the current flood patterns and levels in the locality. As discussed above, Council officers requested this additional detail. Response was received from Richard Harry Engineers in the form of Plan No. A1-111-14. The detail confirms minimal impact on the existing flood characteristics however any future link across the valley remains a concern.*

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*Section 8.4 also tables commercial and industrial development shall be required to provide adequate flood free storage for stock and equipment. It has been recommended that the minimum fill level on the development shall be 6.7m AHD. This has been established by ensuring a freeboard of greater than 300mm is provided above the 1 in 100 yr flood level of 6.36m AHD.*

*Section 8.5 of the plan identifies Inappropriate Development on Flood Liable Lands. The proposed industrial subdivision is not identified as being inappropriate.*

Section 10 of DCP 5 deals with development in Rural Areas. The development requirements specified by Section 10 are less stringent than those in Section 8. The proposed development is consistent with Section 10.

The proposed development is not likely to adversely impact upon emergency services, as proposed industrial lots are above the 1% flood level and no adverse external flooding impacts are likely.

The proposed development is consistent with the Clause objectives, subject to the recommended conditions.

### **Clause 35 – Acid Sulfate Soils**

The objectives of Clause 35 are:

- *to manage disturbance of acid sulfate soils to minimise impacts on water quality, ecosystems, infrastructure and agricultural and urban activities.*
- *to require special consideration and development consent for works, including some agricultural and infrastructure-related works, that would disturb soils or ground water levels in areas identified as having acid sulfate soils.*
- *to provide for a regime of self-regulation by those organisations which have demonstrated to the Council their ability to manage acid sulfate soils issues.*

Clause 35 requires specific consideration of Acid Sulfate Soils issues for this development, including the adequacy of the applicant's acid sulfate soils management plan, the likelihood of the proposed development resulting in the oxidation of acid sulfate soils and discharge of acid water from the area of the proposed works, and comments received from any relevant public authority.

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### Evaluation:

Council's Environmental Health Officer advises:

*"Clause 35 of the Tweed Local Environment Plan 2000 requires that Council must not grant consent to works in an area where mapping by the NSW Department of Infrastructure Planning and Natural Resources indicates acid sulfate soil (ASS) may be disturbed. The classifications relate to the likely location of ASS in the landscape. A preliminary assessment is required and should ASS be present the adequacy of a management plan prepared in accordance with recommended guidelines is to be assessed. Council is also required to assess the likelihood of ASS being oxidised with resultant discharge of acidic water from the site.*

*The site contains areas mapped as both Class 2 and Class 3 ASS. Within a Class 2 area it is likely that ASS will be disturbed at the surface whereas in Class 3 areas the ASS is likely to be found below 1m depth.*

*A detailed Acid Sulfate Soil Management Plan has been submitted by the applicant including the identification and distribution of ASS on the site. Management strategies and monitoring schedules are provided. Additional consent conditions are included in the recommendation to ensure management is in accordance with the submitted management plan."*

The proposed development is consistent with the objectives and provisions of Clause 35, subject to the recommended conditions.

### **Clause 39 – Remediation of contaminated land**

The objective of Clause 39 is *to ensure that contaminated land is adequately remediated prior to development occurring.*

Clause 39 applies the provisions of *SEPP 55 – Remediation of Land* to the proposed development. SEPP 55 is discussed later in this report.

The proposed development is consistent with the Clause objective and provisions of Clause 39.

### **North Coast Regional Environmental Plan 1988**

The following provisions of the North Coast Regional Environmental Plan (the REP) are relevant to determination of this application:

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### Clause 2 - Aims

The Aims of the REP are:

- (a) *to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future,*
- (b) *to consolidate and amend various existing policies applying to the region, make them more appropriate to regional needs and place them in an overall context of regional policy,*
- (c) *to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region, and*
- (d) *to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies.*

The REP's Aims are implemented by:

- (a) *specifying objectives for the future planning and development of land within the region,*
- (b) *specifying regional policies to guide the preparation of local environmental plans within the region, and*
- (c) *specifying regional policies for the control of development in the region.*

The relevant objectives and policies are addressed below.

### Clause 2B – Effect of Aims and Objectives on DA Determination

Clause 2B obliges the Council to “*take into consideration such of the aims and objectives of this plan as are relevant to the making of its determination*” when determining this development application.

### Clause 6 – Agricultural Resources objectives:

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The REP's Agricultural Resources objectives are:

- (a) *to conserve the productive potential of agricultural land,*
- (b) *to provide for new forms of agricultural development and changing patterns of existing agricultural development,*
- (c) *to ensure that commercial agriculture is not affected adversely by incompatible uses which impair its long term sustainability, and*
- (d) *to ensure that industries and services that support agriculture are not disrupted.*

Subject to imposition of the conditions proposed in the recommendation, the proposed development is consistent with the Agricultural Resources objectives.

### **Clause 12 – Impact of development on agricultural activities**

Clause 12 states:

*"The 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."*

In this case no work is proposed on Prime Crop or Pasture Land, but both Class 3 land and sugar growing lands are located adjoining the proposed industrial development and bulk earthworks sites. Subject to imposition of the conditions proposed in the recommendation, the use of the site for industrial development and the proposed subdivision are not likely to adversely affect the use of adjoining land for agricultural purposes.

### **Clause 13 – Catchment Management Objectives**

The REP's objectives in relation to fisheries and catchment management are ***to preserve and enhance fishery habitats and associated catchments, and to promote the sustainable use of natural resources.***

As discussed earlier in this report, a peer review of the geotechnical aspects of the project has resulted in formulation of conditions designed to ensure that the proposed filling will not create adverse environmental impacts. The proposed development is consistent with the Catchment Management objectives, subject to the recommended consent conditions.

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### Clause 15 – Development Control – Wetlands or Fishery Habitats

Clause 15 states:

*"The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:*

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,*
- (b) the need to conserve the existing amateur and commercial fisheries,*
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development,*
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*
- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,*
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves,*
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion, and*
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and*
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment."*

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In that regard:

- The investigations undertaken in this evaluation confirm that the proposed development is not likely to adversely affect the quality or quantity of flows of water to the Tweed River and its riparian habitat.
- Consequently no adverse impact on fisheries is likely.
- No significant loss of habitat is likely to be caused by the carrying out of the development.
- The proposed development with its control measures and recommended conditions in place is not likely to result in pollution of the estuary.
- There are no aquatic reserves located in this part of the river.
- One ridge on the subject land is mapped as protected land by DIPNR. Subclause (g) relates to approval required under the *Soil Conservation Act 1938* for removal of vegetation to minimise soil erosion. Discussions with DIPNR staff confirmed that it is appropriate to include a consent condition requiring the applicant to obtain any necessary approvals from DIPNR prior to commencing work. An appropriate condition is included in the recommendation.
- No significant adverse impacts on native vegetation surrounding the wetland or fishery habitat area are likely.
- There is no relevant environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in the catchment.

### **Clause 46 – Commercial and industrial development objectives**

**The REP's objective in relation to commercial and industrial development is to encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage.**

The proposed development is consistent with the provision of an adequate supply of zoned industrial land. The recommended consent conditions aim to ensure that the development occurs in a manner that ensures minimal environmental damage.

### **Clause 47 – Principles for commercial and industrial development**

Clause 47(2) requires that before granting consent for industrial development, the council must take into consideration the principle that land used for such development should be located where it can be adequately serviced by the transport system and is accessible from urban areas.

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The site can be adequately serviced by the transport system and is accessible from urban areas.

### **State Environmental Planning Policies**

The following State Environmental Planning Policies (SEPPs) are relevant to determination of this application:

#### **SEPP 1 – Development Standards**

Proposed industrial lots 10 38 39 40 42 43 44 45 46 47 48 49 50 53 and 54 are located at least partly within Zone No. 1(a) Rural and will have areas less than the minimum 40ha specified by LEP Clause 20(2). Section 5.4 of the applicant's Statement of Environmental Effects includes a SEPP 1 objection to the minimum area Development Standard.

The application was referred to Planning NSW (PNSW) for consideration of concurrence pursuant to SEPP 1. PNSW granted its concurrence by letter dated 2 December 2002, subject to the condition *“that subdivision not occur to create any allotments in the Rural 1(a) Zone that do not have enough space within the 50 metres of the 4(c) zone to establish an industrial building envelope – see Clause 14(2)(c) of the LEP”*.

The applicants were advised verbally of the PNSW condition and were subsequently requested by letter of 11 April 2003 to advise how they proposed to deal with the condition, but have not responded to that request.

Despite the applicant's decision to use SEPP 1, the combined provisions of LEP Clauses 20(3) and 11 (Zoning Table re Zone 1(a)) would allow subdivision and development within Zone 1(a) for industrial purposes notwithstanding the minimum 40 ha requirement of Clause 20. Nevertheless, as the application was lodged under SEPP 1 and PNSW has formally issued conditional concurrence, the conditions of the concurrence need to be applied.

The effect of that is that proposed Lots 47 to 50 inclusive must be deleted from the subdivision. An appropriate condition to achieve this is included in the recommendation.

#### **SEPP 11 – Traffic Generating Development**

SEPP 11 is addressed in Section 4.4 above.

#### **SEPP 44 – Koala Habitat Protection**

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Council's consultant ecologist undertook a review of the applicant's flora and fauna evaluation of the site. In part, Council's ecologist advised:

*"Tallowwood is listed by Parker in his Flora list of the site, however trees listed in Schedule 2 do not comprise 15% of trees at the site and therefore the land is not potential koala habitat. No further consideration of SEPP No. 44 is required."*

### **SEPP 55 – Remediation of Land**

Council's Environmental Health Officer advises:

*"The disused Lundberg cattle spray race is located on the site. Investigations by Council officers and the applicant reveal this spray race was installed ~20 years ago by the owner at that time. Discussions with Council staff and long term residents indicate the spray race has not been used for ~6 years and in recent times the stock yards have been available for Council to use for stock holding purposes. A check with NSW Agriculture Cattle Tick Program officers reveals that non – residual chemicals only were used with spray race operations. Barricade S was the usual insecticide in use which is a pyrethroid/organophosphorus chemical with a half life of maybe a month or two.*

*A letter was submitted by the owner of the property immediately to the north of the proposed subdivision advising that he was involved in the erection of the spray race. This person is the nephew of the previous owner (now deceased).*

*In view of the recently recent erection of the spray race, and confirmation by NSW Agriculture that residual chemicals were not associated with spray race operations, it appears it would be very unlikely that any soil contamination would be present on the site at levels above recognised health and environmental investigation thresholds. No further investigation is required."*

### **SEPP 71 – COASTAL PROTECTION**

SEPP 71 does not apply to the subject land.

#### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

No Draft LEP is relevant to determination of this DA.

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### (a) (iii) Development Control Plans (DCP's)

The following DCPs are relevant to determination of this development application:

#### **DCP 2 - Site Access and Parking Code**

Council's Development Engineer advises:

*"The provision of site access to all new allotments shall be addressed in greater detail at the time of lodgement of construction certificate application for Civil Works. To some degree concern has been raised at this stage within the bulk earthworks as a number of the proposed allotments are affected by steep batters along the majority of frontages. Deferred consent conditions have requested an amendment to the difference in vertical alignment between proposed roads and industrial lots. The changes requested shall ensure compliance with the standards of DCP 2.*

*With regard to parking the proposed allotments provide extensive area for onsite parking. The extent of parking to be provided shall be assessed at the time of development application for each use on individual allotments. The road standard within industrial areas requires a pavement width of 13m ensuring sufficient on-street parking is also available."*

#### **DCP 5 – Development of Flood Liable Land**

The provisions of DCP 5 have been addressed in the comments above in relation to Clause 34 of Tweed LEP 2000. The proposed development is consistent with DCP 5.

#### **DCP 16 – Subdivision Manual**

Council's Development Engineer advises:

*"The issue of compliance with the relevant DCP has been considered when assessing the development application. The applicant has raised concern for the relevance of various standards/ DCP's which had been introduced following lodgement in addition to drafts soon to be adopted by Council. The following DCP's and standards have been referenced in assessing the development application.*

- *DCP 16 Subdivisions - V 1.0 adopted 1993*

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- *Development Design Specification D6 - Site Regrading adopted June 5, 2002*
- *Development Design Specification D7 - Stormwater Quality adopted April 2000*

*The resolution of Council at its meeting of 18 June 2003 to adopt DCP 16 Version 1.2 tabled:*

2. *Applications that have already been submitted or are part way through the subdivision process be assessed in accordance with criteria (unless contrary to current NSW legislation) in existing DCP16*

The application for industrial subdivision was received by Council on 10 October 2002. As such the following new or updated DCP's and standards were not considered:

- *DCP 16 - Subdivisions V 1.1 adopted 1 June 2003*
- *DCP 47 - Cut and Fill on Residential Land adopted June 2003. It is also confirmed this current version is identified as applying to residential land only*
- *Development Design Specification D6 - Site Regrading V1.2 adopted June 2003*
- *Development Design Specification D7 - Stormwater Quality V1.1 adopted June 2003*

All aspects of DCP 16 V1.0 have been considered in the assessment of the development application. Where concern has been raised for compliance, appropriate conditions of consent have been provided to ensure minimum standards are met.

### **DCP 42 – Public notification of development proposals**

The development application was notified and advertised for public comment as required by DCP 42.

### **DCP 45 – Socio-economic impacts of development**

DCP 45 is addressed above in relation to LEP Clause 17. Social and economic impacts of the development are also discussed below in relation to Section 79C(2)(b).

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### DCP 47 – Cut and Fill on Residential Land

DCP 47 does not apply to this application, as clause 1.2 applies it only to residential development.

#### (a) (iv) Any Matters Prescribed by the Regulations

The subject land is not in the Coastal Zone and neither the NSW Coastal Policy nor SEPP 71 – Coastal Protection apply.

No demolition is involved, other than that associated with upgrading works at the pistol club. An appropriate consent condition is recommended.

#### (b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The following issues are particularly relevant to this application:

##### Flora and fauna

The application was accompanied by a Flora and Fauna Assessment by Peter Parker, and a Revegetation Strategy by Len and Kay Ball. As reported in the applicant's SEE, the flora and fauna report concluded that "the proposed development is not located on land identified as critical habitat, nor is it likely to significantly affect threatened species, populations or ecological communities or their habitats and therefore a species impact statement is not necessary". The revegetation strategy proposed a landscaping and planting strategy for the development.

Following review of the flora and fauna report and submissions received during the first round exhibition, Council engaged an independent ecologist to review the findings of the reports and to advise on the relevant flora and fauna related statutory requirements relative to this DA and whether the issues relating to flora and fauna raised in the submissions warrant further investigation.

Council's ecologist advised:

- The on-site earthworks will result in the complete loss of habitat for native flora and fauna of the site and a significant net loss of biodiversity at the local scale. The applicant's flora and fauna assessment is less than comprehensive and does not comprise a thorough inventory of biodiversity at the site, but is adequate in

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terms of likelihood of impacts on threatened species or their habitats. It is unlikely that the proposed development will result in or contribute to the extinction of any local population of threatened species.

- The land is not potential koala habitat pursuant to SEPP 44 – Koala Habitat Protection.
- Referral to Environment Australia under the Commonwealth EPBC Act is not required.
- Given the concern regarding the occurrence of the ROTAP Black Walnut *Endiandra globosa* on the site, the applicant should be requested to locate and flag these trees and identify them on a site map so they can be assessed for translocation or propagation purposes.
- Water sampling should take place downstream at selected sites so that later environmental audit can identify changes in water quality arising from site earthworks, and implement remediation measures if required.
- The revegetation strategy by Len and Kay Ball appears broadly appropriate to the task of stabilising batters, revegetating parts of the site and establishing a vegetated buffer along Wardrop Valley Road. The strategy could be improved by salvage and preservation of native seedlings and seeds from existing site vegetation, eg *Hovea acutifolia* and *Lophostemon suaveolens*.
- It is recommended that an Environmental Management Plan be prepared to include:
  - Investigation and reporting of water quality in watercourses downstream of the site;
  - A water monitoring plan, including a sampling regime that includes pre, during and post-construction monitoring of watercourses downstream of the proposal;
  - A reporting mechanism, with identified threshold and triggering levels, for reporting changes in water quality parameters to DIPNR.

Conditions are included in the recommendation addressing the above recommendations.

Council's ecologist's comments on other specific issues raised in community submissions are discussed in the Appendices to this report. Subject to the recommended conditions, the proposal is acceptable in terms of flora and fauna issues.

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### **Geotechnics and hydrogeology**

As discussed in Section 4.6, Council commissioned a peer review of the applicant's Geotechnical report and proposed filling methodology. As a result of that process, the recommended consent conditions are designed to ensure that the proposed filling operation will result in a stable landfill and will not create adverse environmental impacts on the site, adjoining lands or the downstream riparian environment.

### **Surface water and ground water**

The recommended consent conditions are aimed at ensuring that the proposed development will not adversely affect surface water or ground water quantity or quality.

### **Air quality**

Appropriate conditions are incorporated in the recommendation to address potential air quality impacts during the construction phase of the development. Potential air quality impacts from future development of the resultant lots will be addressed in future application and approval processes.

### **Social and economic impacts**

It is evident that the construction of a subdivision that involves 1.5 million cubic metres of cut and fill over a 5 year period will create amenity and social impacts in the locality. It is also evident that the subsequent development and operation of industrial landuses in the resultant subdivision will result in changes to the existing character of the area. These impacts will result from the changed character of the site itself from rural to industrial, combined with the associated increase in noise, traffic (including heavy vehicles) and general activity in the locality, particularly along the access roads to the site. The change in character may also affect land values in the locality.

Balanced against these impacts are the issues of the long term Industrial Zoning of the land, the genuine need for and scarcity of serviced industrial land in the locality and region, the potential community benefits of generation of economic activity and the associated resultant social benefits in the community. In that regard it needs to be acknowledged that the land was specifically purchased and zoned by Council for industrial development, and has been zoned that way for many years. Much of the rural residential style development that has occurred in the locality has been established in the knowledge that industrial development of the site at some time in the future

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was at least possible, and probably even likely, given the parlous state of industrial land availability in the Tweed and Gold Coast Region.

In weighing up the social and economic costs and benefits, the following issues need to be considered.

### Industrial land demand

The "Potential Industrial Land Investigation" report prepared by Council in 2000 identifies a significant demand for, and shortfall in the provision of serviced industrial land to service Tweed Shire. This position is supported strongly in submissions from the Tweed Economic Development Corporation, and is also supported by Council's Economic Planner.

Clause 48 of the North Coast Regional Environmental Plan also supports the retention of Industrial zoned land. It stipulates that existing zonings of industrial land should not be substantially reduced, and that any reduction should be considered from the point of view of the total area of industrial zoned land in the Shire. The Council's experience in identifying and zoning land for industrial purposes in the Shire has been that suitable sites are rare and difficult to implement.

The Coolangatta Airport Enterprise Park Feasibility Study (SGS 2001) discusses the potential growth of demand for industrial land in the Gold Coast/Tweed region, and advises (S4.2):

*"While it is highly speculative to nominate a figure, total industrial land consumption rates in the border area (from say Murwillumbah to Nerang) could be expected to accelerate, with 3 to 7 hectares per year a realistic proposition".*

The available information confirms that there is a genuine demand for serviced industrial land in the area and that the subject land is a significant economic resource, provided it can be developed in an environmentally acceptable manner.

### Landscape and visual issues

The site of the proposed industrial subdivision is generally well concealed from view of much of the surrounding area by intervening topography, vegetation and development. Despite that however, it is clearly visible from various important public and private viewing points, eg from:

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- Parts of Wardrop Valley Road adjoining the site;
- Various areas around Murwillumbah railway station, Bray Street and the former Pacific Highway;
- Various parts of Murwillumbah urban area, eg Bent Street/ Lions lookout, Boscabel Avenue, Eyles Avenue/ Lucas Lookout.

Given that much of the land is relatively steep and that extensive cuts and fills are proposed in order to create the relatively level sites that are required for industrial development, the landform will be changed significantly by the subdivision development. The landscape will later be changed again by the subsequent construction of industrial development on the resultant lots. Subject to amelioration provided by the proposed landscape measures, these changes will be evident from the above-mentioned viewing points, as well as from adjoining farmlands and more distant lands.

The Tweed Shire Scenic Landscape Evaluation study report (the Landscape Study) was prepared on behalf of Council in November 1995 by Catherine Brouwer, Landscape Architect. The industrial subdivision site falls within the southern central part of the "Tweed River Valley" Scenic Unit No. 26 as defined by the Landscape Study. Scenic Unit No. 26 extends from south of Murwillumbah in the south to Terranora in the north. Key conclusions of the Landscape Study in Scenic Unit No. 26 include:

### SCENIC ANALYSIS

#### **Observer points**

- Pacific Highway, Clothiers Creek Road, Dulguigan Road, Tomewin Road, Tumbulgum Bridge, Farrants Road, Duranbah Road

#### **Scenic Assessment**

- Very High.

#### **Scenic appreciation/ Significant values**

- The wide open Tweed River floodplain – the river and canefields are seen in contrast to heavily forested ridges from the Pacific Highway. This highly scenic valley is important to Tweed Shire identity and its overall landscape structure.

### SCENIC MANAGEMENT

#### **Opportunities**

- Recreation opportunities along the river
- Retain highly scenic agricultural landscape

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### Parameters of development

- The foreground of the Pacific Highway should remain open to views of canefields and/ or natural landscape without advertising signs or development
- New development should not be clearly visible from the Pacific Highway and other designated scenic viewpoints
- Development should be consolidated within the existing development nodes of Tumbulgum, Condong and Murwillumbah to avoid sprawl into surrounding landscape
- Retain tree canopy and open grass ridges of surrounding ridges as natural landscape
- Hillside in foreground of highway and significant viewpoints viewsheds to be maintained as undeveloped natural landscape – rural or forested. These landscapes form the scenic setting of the Tweed Shire entry and central landscape in the shire identity. As such they play a major role in the shire landscape amenity for residents and visitors.

Note: The Pacific Highway referred to in the Landscape Study is the “old” Highway, before completion of the current bypass route.

Scenic Unit No. 26 falls within Scenic Management Zone A. The objectives of Scenic Management Zone A are defined by the Landscape Study as (p22):

Landscape alterations only of minimal impact with no apparent visual disturbance.

Small scale developments which are allowed planned to fully accommodate or enhance the special landscape qualities of the area, including visual impact assessment as part of an Environmental Impact Assessment.

The applicant's Statement of Environmental Effects did not contain a visual analysis and submitted that the site is not visually prominent from any public areas. Because of the “Very High” scenic assessment rating of the site and because it is in fact visually prominent from a number of important public and private viewing points, the applicants were requested to provide a visual impact analysis and improved landscape plans and information. The applicants were provided with photographs showing views to the site from various areas. The following additional reports were submitted:

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- Vegetation Strategy by Len and Kay Ball, dated July 2003; and
- Vegetation Strategy by Len and Kay ball, undated, received 16 December 2003

The two documents need to be read together. The new documents do not provide a visual analysis, but they present concept drawings showing proposed site landscaping, conceptual representations of the appearance of the development viewed from Murwillumbah and details of proposed planting species and techniques. Whilst the graphics contain some errors in respect to site levels and extent of development, they do provide Council with adequate material to evaluate the anticipated visual impact of the development.

The proposals involve the provision of a vegetated buffer 3 metres wide to be constructed around the perimeter of the subdivision. Three different planting strategies are proposed at different locations within the buffer:

- Strategy 1 is located along the boundary of Wardrop Valley Road where it adjoins the proposed industrial subdivision, and also runs along the top of the batter of the single residential lot excised from the subdivisions that adjoins Wardrop Valley Road. Planting strategy 1 proposes a bund with border planting of ground cover plants to 1 metre high along the roadside, middle storey dense planting of trees to 8 metres high, and intermittent canopy trees including silky oak, blue quandong and Tulipwood.
- Strategy 2 is located along the eastern and southern boundaries of the development. It proposes quick growing pioneer species (*Acacia fimbriata*) along the external perimeter; dense planting of *Casuarina glauca* to form a visual barrier and internal perimeter of lower growing shrubs. This would form an effective visual buffer to the development when viewed from adjoining farmlands.
- Strategy 3 is located on the majority of the western frontage of the fill batter of the development, which will be visible from Murwillumbah. The Vegetation Strategy Plan does not define planting along the southern part of this frontage along Road No. 1, but the cross sections do show planting here. This strategy proposes quick growing pioneer species (*Acacia fimbriata*) along the external perimeter; a major profile plant species *Araucaria cunninghamii* along the central strip; and an internal perimeter of low growing shrubs. This planting profile would provide a visual screen of the development, including future buildings on the site, when viewed from Murwillumbah.
- Batters are to be hydromulched and hydroseeded, aimed at quickly establishing a stabilising "green" cover.

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The evaluation of the impact of the proposed development and landscape works must take into account the fact that the land is zoned for industrial development. It must further take into account the reality that industrial development requires relatively level sites, and consequently extensive earthworks will be required if the land is to be suitable for industrial lots in accordance with the zoning.

When viewed from Wardrop Valley Road the proposed Strategy 1 bunding and landscape treatment would provide a good visual screen of vegetation along Wardrop Valley Road and would effectively screen the industrial development below.

When viewed from Murwillumbah, south Murwillumbah and other points to the east and in the surrounding country, the change in landform will be evident, as demonstrated by the photographic representations provided in the applicant's December Vegetation Strategy Report. However the development is located well below the dominant vegetated hills behind, the proposed batter treatment will simulate the current pasture lands and the proposed planting will screen the industrial development behind from view.

Consequently, and subject to a deferred commencement condition requiring the provision of accurate and professionally prepared landscape designs, the proposed landscape treatment is acceptable from a visual point of view.

In terms of the ecological appropriateness of the proposals, Council's consultant ecologist advises (see Flora and Fauna discussion above) that the revegetation strategy appears broadly appropriate to the task of stabilising batters, revegetating parts of the site and establishing a vegetated buffer along Wardrop Valley Road. The strategy could be improved by salvage and preservation of native seedlings and seeds from existing site vegetation, eg *Hovea acutifolia* and *Lophostemon suaveolens*.

In terms of bush fire APZs, RFS staff have confirmed that the proposed landscaping along the edge of the development will be acceptable within the APZ.

In terms of the proposed work at the pistol club site, these works are shown in the drawings and photographs accompanying the letter of 15 January 2004 to Council from Darryl Anderson Consulting. Appropriate landscaping can visually screen the additional protective works, and suitable area is available to achieve that. This is addressed in the overall deferred commencement condition regarding landscape works.

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An appropriate Deferred Commencement condition is included in the recommendation.

### Acoustics

Because of predicted significant noise impacts, the applicants were requested to provide further acoustic evaluation and detail of impacts. Council's Environmental Health Officer provided the following report in relation to the final TTM acoustic report dated 19 February 2004:

#### **Background**

*The proposed subdivision site was rezoned for industrial purposes in January 1988. The dwelling immediately adjacent the northern boundary is also on a small parcel of land zoned industrial. A seven lot rural residential subdivision was approved on Wardrop Valley Road opposite this site in April 1989. A further three lot subdivision of the residual lot plus one other was approved in 1995. Six dwellings (including the aforementioned industrial zoned dwelling) are located in this area with buffer distances ranging from 40 – 240m. Several other dwellings are located further along Wardrop Valley Road approximately 800m to the southeast of the proposed development.*

*Complaints have been previously received by Council from residents along Wardrop Valley Road relating to alleged offensive noise from premises in the industrial area around Buchanan Street. Also comments received during the consultation process for this development indicate that existing residents will be sensitive to any increase in ambient noise levels.*

*In view of the small buffer to adjoining properties and the likely noise levels during the construction and operation of the industrial estate Council's Environmental Health Unit determined that a detailed noise assessment was necessary.*

*An acoustic report was submitted by the applicants - **Proposed Industrial Park Development Wardrop Valley South Murwillumbah – Environmental Noise Impact Report** prepared by TTM Acoustics dated 30 September 2003. Following discussions between the applicants, acoustic consultant and Council officer, an amended report was submitted on 19 February 2004. Matters addressed in the reports included*

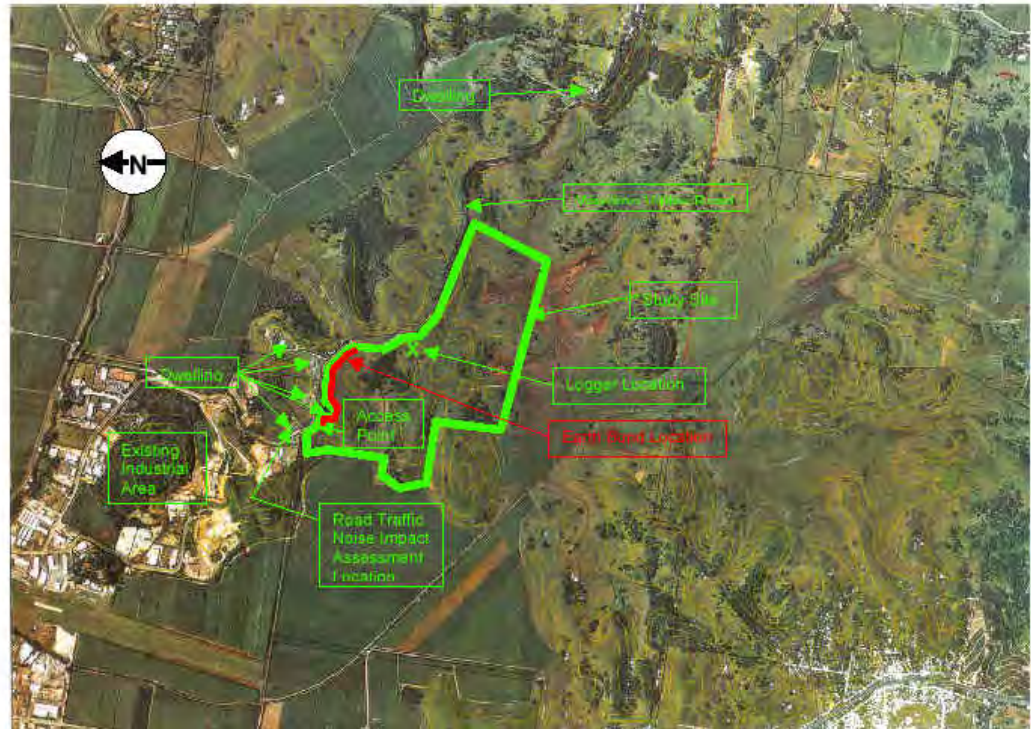
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- Construction noise
- Operational noise
- Traffic noise

Figure No. 1: Site Location & Logger Location



### Noise Guidelines

Three guidelines appear relevant to this development  
NSW EPA Industrial Noise Policy  
NSW EPA Environmental Criteria for Road Traffic Noise  
NSW EPA Environmental Noise Manual

The NSW EPA Industrial Noise Policy was developed to provide guidance for premises scheduled under the Protection of the Environment Operations Act 1997. However it is noted that local government may find the policy helpful in landuse planning. Construction activities are not addressed in this guideline. Traffic noise on public roads is dealt with under the EPA Environmental Criteria for Road Traffic Noise.

Throughout the policy there is a reinforcement that noise is only one consideration when assessing the impacts of a development. Section 1

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*includes an objective that states that the policy is “to provide a formal process to guide the determination of feasible and reasonable noise limits for consents or licenses that reconcile noise impacts with the economic, social and environmental considerations of industrial development.”*

*Section 7 of the policy states that an application for a development should not be determined purely on the compliance or otherwise with the industrial noise source criteria. Numerous other factors need to be taken into account in the determination including:*

*Economic consequences  
Other environmental effects  
Social worth of the development*

*Noise is normally considered to be offensive where the noise level with the noise source included (measured in decibels (dB) is 5dB(A) (note – the (A) refers to a statistical weighting applied to the noise level to reflect frequencies able to be heard with the human ear) or greater above the background level. Long-term studies throughout the world have demonstrated significant levels of complaint above this level. It should also be noted that a 10 dB(A) increase in noise level measured is perceived as a doubling of loudness.*

*The traffic guidelines assist councils in setting appropriate criteria, controls and uses for land affected by road traffic noise. The criteria may be used (as in this case) to assess the impact and determine mitigation measures for a landuse with the potential to create additional traffic on local roads.*

*The Environmental Noise Manual is now largely superseded but does provide some guidance on construction site noise and general noise quality objectives. Council has modified the construction noise criteria within this manual as a standard condition on development approvals. The level used by Council is a maximum 20dB(A) above the background level for up to 4 weeks duration and a maximum 15dB(A) for the duration.*

*Discussions with the RTA and EPA reveal that this prescriptive approach has some deficiencies with many developments unable to meet these requirements. The RTA adopts a best management approach with a focus on liaison with affected parties. The EPA endorses this approach and is currently drafting new construction site noise guidelines which will*

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*recommend a less prescriptive objective and encourage the implementation of best management measures*

### ***TTM Environmental Noise Impact Report***

#### *i. Construction Noise*

*The initial report provided no information on expected noise levels during construction works. The approach adopted was to recognise that the construction period was non-permanent and a suitable approach was to set times of operation and recommend management strategies to minimise the noise both at the source and in the noise path. Strategies included:*

- 1. Time of operation 7 am – 6 pm Mon – Sat. No work Sunday or Public Holidays unless arrangements with TSC*
- 2. Maintenance of equipment*
- 3. Use and siting of equipment*
- 4. Appointment of responsible person on site for noise issues*

*Following discussions with the applicants and the consultant an amended report was submitted which provided more detail on expected noise levels during bulk earthworks. Typical noise levels from large earthmoving equipment was modelled to predict likely levels at affected properties. The staging of the project was also noted with stages 2 – 4 (northern part of site closest to affected properties) expected to take 20 – 24 weeks. For the bulk earthworks for Stages 5 – 8 a time period of 52 weeks was noted.*

*The modelling was based on worst case scenarios with noise levels predicted assuming equipment was located on the boundary nearest the affected properties. Obviously as the site works move away from the boundary the noise levels would reduce with distance attenuation (note – the distance attenuation is approximately –6dB(A) with a doubling of distance).*

*The modelling used measured noise levels from a 25T dump truck, 200kw excavator, and a >100kw grader. The noise levels for the equipment did not vary significantly with only 3 dB(A) difference between the grader 111dB(A) @ 1m and the 25T dump truck 108dB(A) @ 1m. The 200kw excavator was measured in between at 110 dB(A) @ 1m.*

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Noise Source	Predicted Noise Impact Level SPL dB(A) at Dwelling		
	Across Road to North-east	Dwelling north boundary	Dwelling (south-east)
<b>STAGES 2, 3, 4</b>			
25t Dump truck	81	91	47
200 kw Excavator	83	93	52
> 100 kw Grader	84	94	53
<b>STAGES 5, 6, 7, 8</b>			
25t Dump truck	51	60	50
200 kw Excavator	53	62	52
> 100 kw Grader	54	63	53

*The predicted noise levels at the affected properties were determined for works within stages 2 – 4 and also stages 5 – 8. The predicted levels for the northern dwelling and the dwellings to the north east across Wardrop Valley Road are seen to decrease by about 30dB(A) between works on stages 2 – 4 and stages 5-8. There is very little difference to noise levels expected at the dwelling to the south east with the change in location of the work area.*

*The modelled noise levels for the dwellings to the northeast across Wardrop Valley Road do not include the reductions achieved with the installation of a 2.5m high temporary earth bund along the boundary opposite these dwellings during construction. The acoustic consultant has estimated a 6dB(A) reduction in noise levels will occur.*

*However even incorporating this 6dB(A) reduction into the calculations the predicted noise levels for the dwellings across Wardrop Valley Road to the northeast are greater than 30dB(A) above the Council guideline (background level (30dB(A) ) + 15dB(A) = 45dB(A)) for the early stages of the development. The predicted level of >75 dB(A) is in excess of 30dB(A) of the Council guideline noise level. The figure at the adjacent northern dwelling (~90 dB(A) ) is approximately 45dB(A) above this level.*

*The noise level at the dwelling to the south east is around 5 dB(A) above the guideline.*

*For the later stages of the development the figures reduce to approximately 5dB(A) (NE), 15dB(A) (N) and 5dB(A) (SE) above the Council guideline.*

*As stated earlier, the use of maximum recommended levels for construction site noise is not seen by State authorities as being practical. Many bulk earthwork developments including motorways now use best management practices including use and siting of equipment, times of operation, maintenance, temporary barriers, and resident complaint liaison. A number of these strategies are included in this report.*

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### ii. Operation Noise

A continuous noise logger installed on the site revealed very low background noise levels for the area. These levels were typical of a rural landuse with low traffic numbers.

The Industrial Noise Policy addresses two separate noise criteria to meet environmental noise objectives:

*Intrusive noise* – sets maximum levels for the source based on an accepted offensive noise level of background level + 5 dB(A). In this case the criteria is the background level at 30dB(A) + 5dB(A) = 35dB(A).

*Amenity of particular landuse* – based on noise criteria specific to land use. The type of noise receiver and time of day is considered. The relevant noise descriptors as defined in this proposal are a dwelling in a rural area. Using the table from the policy the amenity protection criteria is:

Daytime 50dB(A)  
Evening 45dB(A)  
Night 40dB(A)

The policy states that the more stringent criteria is to be applied. Thus the adopted criteria is:

Daytime 35dB(A)  
Evening 35dB(A)  
Night 35dB(A)

To assess the impact of the development likely industrial noise sources were modelled to predict possible noise levels adjoining properties would experience. Some of the examples used were:

- a. Truck unloading outdoors using forklift
- b. Truck air brake outdoors
- c. Truck unloading inside using forklift
- d. Hammering inside building
- e. Car door closure outdoor car park
- f. Car @ 50km/h at entry to subdivision
- g. Truck @ 50km/h at entry to subdivision

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Noise Source	Predicted Noise Impact Level SPL dB(A) at Dwelling		
	Across Road to North-east	Dwelling north boundary	Dwelling (south-east)
Unloading truck in outdoor area	54	60	31
Truck air brake in outdoor area	58	64	35
Car door closure outdoors	45	52	22
Car bypass at entry	45	37	27
Truck bypass at entry	51	45	27
Hammering inside building	45 (Rw 39 building shell)	45 (Rw 46 building shell)	45 (Rw 14 building shell)

*Guidelines note that any increase above the background sound level which exceeds 5 decibels (5dB(A)) may be offensive to noise receivers.*

*The background level was measured as less than 30dB(A) at all times during the logging operation. The guidelines note that where levels are recorded as less than 30dB(A) the level is adjusted to 30dB(A). If the offensive noise figure (+5dB(A)) is included the guide for intrusive noise from operations within the subdivision when measured at noise receivers is  $30 + 5 = 35\text{dB(A)}$ .*

*There are a number of dwellings in the area along Wardrop Valley Road:*

- *Dwelling on northern boundary of subdivision (zoned industrial)*
- *Five (5) dwellings across Wardrop Valley Road north east of the subdivision*
- *Several dwellings >790m south east of the development.*

*Using the Background + 5 dB(A) (35dB(A)) figure there is little impact of the development on properties to the southeast. If it is assumed that the property to the north is an isolated dwelling in an industrial zoning the major impact will be on the properties to the north east on the opposite side of Wardrop Valley Road. Using outdoor truck unloading with a forklift as an example the noise level will be 19 dB(A) above the recommended limit. To comply with the guidelines the forklift operation would need to be a minimum of 250m from any dwelling. As a guide, a worst case scenario was modelled using the noisiest activity associated with the future use of the site (hammering) with the activity being at the nearest location to the dwellings. This assessment indicated that if high noise is to be generated inside buildings adjacent to Wardrop Valley Road, the building would need to provide significant sound reduction in the design. For the hammering, the wall nearest Wardrop Valley road would need to be masonry with no openings. A double layer of fibre cement and batts to the ceiling would also be necessary. Even with this treatment the noise level predicted at affected dwellings is 10 dB(A) above recommended levels.*

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### iii. Traffic Noise

*The initial consultants report noted the EPA guidelines for traffic noise and included criteria applicable to this development. The criteria adopted was:*

*Day (7am-10pm) 55 LAeq (1hr)*

*Night (10pm-7am) 50 LAeq (1hr)*

*Leq is a measure of the noise load and averages out noise measurements.*

*The policy further states that in all cases traffic arising from the development should not lead to an increase in existing noise levels of more than 2 dB. The consultants report modelled predicted noise levels based on a truck and a car travelling at 50kmh at the entry point to the site. No predicted noise levels based on expected traffic increases were undertaken. Following discussions with the applicants and the acoustic consultant an amended report provided further details.*

*Assuming 4500 vehicles per day with a 20% commercial component, Leq (1hr) levels were predicted for the dwelling immediately adjacent the entry to the subdivision (site 1) and to the east of the entry (site 2). Levels ranged from:*

	Night	Day
Site 155 – 62 Leq (1hr)		55 - 67Leq (1hr)
Site 249 – 55 Leq (1hr)		49 - 60Leq (1hr)

*When compared to the traffic noise criteria for this type of area these predictions indicate a maximum traffic noise of 12 Leq (1hr) above the criteria during daytime and a maximum increase of 12 Leq (1hr) during the night. At site 1 the criteria was equalled or exceeded at all times. At site 2 the criteria was exceeded approximately 50% of the time for both night and day.*

*It is noted that the entry point to the proposed subdivision has been relocated towards the north west to provide maximum buffer distances to the affected dwellings.*

*The existing night time levels seem to range between 30 – 35 Leq (1hr). The day time levels are around 40 – 55 Leq (1hr).*

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*When the existing noise levels are compared to the expected noise levels for traffic there is a significant increase above the maximum 2 dB especially during the night.*

### **Discussion**

*Noise levels associated with the construction and operation of this development are predicted to significantly exceed guideline recommendations. Complaints from adjoining residential properties are likely.*

*Both the RTA and EPA point out the difficulties for developments with large earthmoving components to meet current guidelines during construction. The RTA has adopted a best management approach for construction of motorways with a focus on liaison with affected parties. The EPA is incorporating this approach into future construction site noise guidelines. The proposed subdivision includes management strategies to help reduce expected noise levels. Measures proposed include:*

*A Construction Noise Management Plan with:*

- Restriction of operating times during construction*
- Maintenance of earthmoving equipment*
- Controlling location of equipment where possible to provide maximum buffers*
- Appointment of a responsible person on site to deal with noise issues*
- Prompt response to noise complaints with mitigation undertaken where possible*

*The applicants propose:*

- Provision of a 2.4m high acoustic barrier to the southern, eastern and western sides of the dwelling zoned industrial on the northern side of the proposed development. A 1.5m high lapped timber paling fence located on a 900mm high earth bund would satisfy this condition.*
- Provision of a temporary earth bund to the northern boundary to provide some acoustic protection to the dwellings located on the opposite side of Wardrop Valley Road*

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*Matters that need to be considered with this subdivision are*

- *The site was rezoned for industrial purposes in 1988.*
- *Affected dwellings are within a rural residential subdivision approved in 1991. This is 3 years after the rezoning across the road. A search of the zoning within the locality would have revealed the industrial zoned land to the west.*
- *The most affected dwelling immediately adjacent the site to the north is on land zoned industrial. The owner of this land has forwarded a letter agreeing to the provision of an acoustic barrier.*
- *Modelling of expected noise impacts has been based on worst case scenarios with noise sources modelled on boundaries of the site adjacent affected properties.*
- *The entry point to the site from Wardrop Valley Road has been relocated to maximise the buffer to affected properties.*
- *The final finished level of the site will be below Wardrop Valley Road to provide an acoustic barrier to affected properties.*
- *This development is for the creation of the industrial site. The operations within this subdivision upon completion of infrastructure are unknown and will be driven by market forces. Council is able to assess these operations including expected noise emissions at the time of lodgement of a development application.*

*The noise impact from this development should not be considered in isolation. The wider environmental, social and economic factors need to be balanced with any noise considerations.*

*The major impact would seem to be the noise emissions during the early stages of earthworks in the northern part of the site. The likely noise from the operation of the subdivision is difficult to predict with final occupancies unknown. The noise impact from these operations may be assessed at the time of lodgement of the individual development consents and special building techniques and restricting the location of noisy operations to provide maximum buffers may be necessary. Traffic noise will increase in areas subject to development.*

### **Conditions of any consent**

*Compliance with Best Practice Management Principles as discussed in RTA Environmental Noise Management Manual.*

*Development to be strictly in accordance with the recommendations in Section 6.0 and the Construction Management Plan in the Proposed*

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*Industrial Park Development Wardrop Valley South Murwillumbah – Environmental Noise Impact Report prepared by TTM Acoustics dated 19 February 2004*

*Any variation on the times of operation during construction shall be subject to the approval of the Director of Environment and Community Services. Any request for variation shall be submitted to Council in writing.*

*A person normally on site shall be nominated as the 'responsible person'. This person shall be the first contact for any complaints relating to noise, erosion and sediment control or dust issues. The contact details shall be made available to all affected residents along Wardrop Valley Road and adjoining properties. This person shall take immediate steps to determine the source of the complaint and take steps to mitigate as required.*

*Provision of a minimum 2.5m temporary earth bund on the boundary of the site immediately adjacent Wardrop Valley Road in the location as noted in Figure 1 of the TTM Acoustic report dated 19 February 2004*

*Submission and approval of a detailed construction site noise management plan addressing:*

- *Equipment noise muffling and maintenance*
- *Siting and configuration of temporary earth bunds during earthmoving operations*
- *Responsibilities of site managers*
- *Complaint resolution protocol*

### **Evaluation:**

For this purpose it is important to have some understanding of the nature of noise measurements. Appendix D is an extract from the RTA's Environmental Noise Management Manual (December 2001) that shows graphically the nature of different levels of noise. The sound of a jet taking off at 100 metres distance generates a Sound Pressure Level (SPL) of around 120 dB; beyond this level hearing damage occurs rapidly. A pop group generates around 110 dB, a pneumatic drill or heavy truck at 7 metres distance generates around 90 dB, average street traffic at 40kph at 7 metres distance generates 75 dB, a business office operates at around 60 dB, a living room at around 40 dB, a library at around 30 dB and a bedroom at around 25 dB. Because decibels are logarithmic units, each 10 dB increase is perceived as a doubling of

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loudness. Noise levels will fall by 6dB when the distance from the noise source is doubled.

In evaluating the potential effects of the proposed development on existing dwellings in the locality it is relevant to consider the following matters:

- The locality of the proposed development is presently a quiet rural area. Background noise levels measured at the site by TTM are presently very low at around 30 dB(A).
- An exceedence of current background levels of 5 dB(A) or more is perceived as potentially offensive to receivers, ie in this case to people living in the area.
- Since 1988 the subject land has been zoned for industrial development. It is inevitable that when or if industrial development occurs on this site, it will be accompanied by significant changes to the character and amenity of the area and significant increases in traffic, noise and activity along the access roads and in the locality. It is also inevitable that those increases in activity will increase the present low background noise levels in the locality. Those sorts of changes and their impacts on rural character and amenity ought to be assessed and weighed up in the process of deciding whether or not to rezone the land.
- Despite its own knowledge of the Industrial zoning, the Council approved the most affected rural residential subdivisions and dwelling houses located on the opposite side of Wardrop Valley Road some years after the rezoning of the site.
- The existing dwelling located within the northern boundary of the overall subdivision site pre-dated the industrial zoning of the land. The other rural residential lots and dwellings in the locality were subdivided and built after the site was zoned industrial, in accordance with Council approvals. Consequently it was public knowledge and reasonable to expect at the time they were subdivided and built that industrial development with its attendant character and amenity changes was likely to occur on the site at some future time.
- This presents a dilemma that is common to newly developing urban/ industrial/ commercial areas located in former rural lands, ie it usually is not possible to accommodate intensive urban/ industrial/ commercial growth in existing rural areas without creating significant changes to the rural character and amenity of the area. The essence of the dilemma is how to manage the impact of that change on existing residents in circumstances where the new growth is in the wider public interest, despite the acknowledged impacts on existing residents.

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In terms of Council and EPA noise guidelines, the key findings of the Environmental Health Officer's report discussed above may be summarised as follows:

**a. Construction Noise:**

- Council's construction noise guidelines recommend a maximum construction noise level of 45dB(A) at affected dwellings in this locality. This is based on a 15dB(A) increase over the assumed current background level of 30 dB(A).
- Stage 2, 3 and 4 construction is predicted to extend over a period of approximately 20-24 weeks. Worst case predicted construction noise is up to 78dB(A) at the 5 dwellings across Wardrop Valley Road, 94 dB(A) at the dwelling immediately north (which is part of the overall subdivision but not part of the proposed industrial estate) and 53 dB(A) at the nearest dwelling to the south east. These levels exceed Council's recommended Guidelines by up to 33 dB(A) at the dwellings across Wardrop Valley Road, 49 dB(A) at the dwelling on the northern boundary and 8 dB(A) at the dwelling to the south east.
- Stages 5, 6, 7 and 8 construction is predicted to take approximately 52 weeks. Worst case predicted construction noise is up to 48 dB(A) at the dwellings across Wardrop Valley Road, 63 dB(A) at the dwelling immediately north and 53 dB(A) at the dwelling to the south east. These levels exceed Council's recommended Guidelines by up to 3 dB(A) at the dwellings across Wardrop Valley Road, 18 dB(A) at the dwelling on the northern boundary and 8 dB(A) at the dwelling to the south east.
- The predicted exceedences of the guidelines are very high for stages 2 to 4 and significant for the remaining stages, based on the current 30 dB(A) background level.
- Both EPA and RTA are taking a new, less prescriptive approach to management of construction noise, because of the difficulties experienced with prescriptive requirements. The new approach is based on implementing Best Practice Management techniques and serious ongoing liaison with affected parties.

**b. Operational noise:**

- The EPA Industrial Noise Guidelines recommend a maximum operational Intrusive Noise level of 35dB(A) at affected dwellings in this locality. This is based on a 5dB(A) increase over the assumed current background level of 30 dB(A). If the Guidelines' Amenity criteria were adopted (not recommended here by the Guidelines as the Intrusive

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Noise criteria are higher) the recommended levels would be Daytime 50dB(A), Evening 45 dB(A) and Night 40 dB(A).

- Worst case predicted operational noise is up to 58dB(A) at the 5 dwellings across Wardrop Valley Road, 64 dB(A) at the dwelling immediately north and 35 dB(A) at the nearest dwelling to the south east. These levels meet the EPA recommended Guidelines at the dwelling to the south east, but exceed the Guidelines by up to 23 dB(A) at the dwellings across Wardrop Valley Road and 29 dB(A) at the dwelling on the northern boundary.
- If the Amenity criteria were applied, the exceedences at the dwellings across Wardrop Valley Road would be up to 8 dB(A) Daytime, 13 dB(A) Evening and 18 dB(A) night time. Exceedences at the dwelling immediately north would be up to 14 dB(A) Daytime, 19 dB(A) Evening and 24 dB(A) Night, with no exceedences at the dwelling to the south east.
- Noise from future developments located further away from the existing dwellings than those modelled in the TTM study would be less intrusive.
- The EPA guideline advise that noise is only one consideration when assessing the impacts of a development. Section 1 includes an objective that states that the policy is “to provide a formal process to guide the determination of feasible and reasonable noise limits for consents or licenses that reconcile noise impacts with the economic, social and environmental considerations of industrial development.”
- Council is able to consider noise aspects of proposed developments at individual site DA stage and is able to impose conditions such as operating hours limits and design and materials specifications aimed at reducing noise. Some developments may not be able to be approved near the existing dwellings. Despite potential amelioration measures it appears inevitable that exceedences of the guidelines are likely to occur, at least from some outdoor activities associated with developments closer to the existing dwellings.

### c. Traffic Noise:

- The predicted traffic noise levels are up to 12 Leq above the recommended criterion of 2 Leq increase, based on the current measured traffic noise levels at the site.

In terms of the predicted general noise exceedences, the following conclusions are made:

- Because of the long term industrial zoning of the land it is reasonable to assume that the nature of the locality will change from its present quiet

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rural character to a more urban character, with attendant significant changes in traffic, development, general activity and noise. The decision to accept that change was effectively made at the time the rezoning was decided.

- The nature of industrial development is such that the change mentioned above will increase traffic and background noise and the current quiet rural amenity will deteriorate along the access road and around the periphery of the development.
- Given the extensive nature of the change from rural to industrial, it is not feasible to assume that the planned development can occur without a significant rise in the current rural background noise levels.
- The nature of this site is such that substantial earthworks will be required to provide Lots suitable for industrial development. This requires the use of large, highly powered earthmoving equipment.
- The Council's post-rezoning decisions to approve rural residential development in close proximity have resulted in significant acoustic conflicts between this site's industrial development objectives and the residential objectives of the resultant dwellings.
- The current DA is a manifestation of the previous rezoning decision. Prior to the DA, the likelihood of the change in character and activity was public knowledge through the Council's zoning information, and consequently was available to developments and people that arrived in the locality after that decision.
- As discussed elsewhere in this report, there is a real and demonstrated demand for industrial land in the Tweed Shire and the Murwillumbah locality. Industrial land is a very scarce commodity and despite its best efforts Council is finding it very difficult to identify sufficient new industrial land to meet the identified demand.
- There is significant social and economic benefit to the community in proceeding with the proposed development if it can be achieved in a way that restricts adverse impacts to acceptable levels.
- The owner of the existing dwelling located at the northern boundary of the site has provided owner's consent to lodgement of this DA and has provided a letter that accompanies the TTM report, acknowledging the dwelling's Industrial zoning and agreeing to noise management options and monitoring.
- Despite all the foregoing, the predicted noise exceedences are significant and Council could conclude that the application should be refused on those grounds. If that were to occur, it would be appropriate for Council to undertake a serious review of the site's current industrial zoning. Any such investigation should also consider potential options available to manage noise to acceptable levels, eg voluntary purchase arrangements for affected dwellings.

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In terms of the predicted Construction phase noise exceedences, the following conclusions are made:

- It is not practicable to achieve the required earthworks on the site without exceeding the Council's construction noise guidelines.
- This is a situation that is recognised by both RTA and EPA in circumstances where large construction and earthworks developments occur close to existing dwellings.
- There are source control, noise path control and receptor control measures that can be taken to minimise the impacts of construction noise. For example, RTA's Environmental Noise Management Manual lists the following as source control examples time constraints, scheduling of noisy work to less sensitive times, restrictions on equipment type and noise outputs, noise emissions limits and monitoring, use of quieter construction methods, limiting equipment on site to essential equipment only, limit activity duration by concentrating noisy activities at one location then move to another as quickly as possible, avoid vehicle and machinery movements outside construction hours, ensure well maintained equipment, reduce size and power of equipment, workforce training for quieter work practices, manage reversing alarms in accordance with OH&S plan. Other options that have been used in cases of significant noise conflicts include voluntary purchase of affected properties, temporary relocation of residents and retro-fitting of dwellings to make them more noise resistant.
- Council is able to impose a deferred commencement consent condition requiring that the applicant satisfy Council that noise impacts of the development can be managed satisfactorily by submission of a noise management plan for the development. Various options to address noise management can be nominated in the condition. A detailed condition to that effect is included in the recommendation, requiring a wide range of potential options to be evaluated.

In terms of the predicted operational phase noise impacts, as discussed in the Environmental Health Officer's report Council is able to address noise issues at the time of considering individual Development applications by the imposition of conditions or by refusal of applications if it considers the impacts are unacceptable. Conditions such as time limitations, design requirements or location/ screening of potential noise sources can be applied. Some particular developments may not be appropriate on sites close to existing houses.

In terms of the predicted traffic noise exceedences, as discussed above the decision to accept substantial change to the rural amenity along Wardrop Valley Road was effectively made at the time of the decision to rezone the site

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to Industrial. The nature of industrial development is such that this change will increase traffic and background noise and the current quiet rural amenity will deteriorate along the access road and around the periphery of the development. Consent conditions restricting construction hours can be imposed on the current application to control the times of traffic noise impacts. Consent conditions restricting operating hours can be imposed on subsequent development applications to control the times of operational noise impacts.

Vibration is not expected to create problems with this development, as no blasting is proposed. Nevertheless, the recommended consent conditions address vibration issues to ensure that no unanticipated vibration impacts occur.

A deferred commencement condition requiring the submission of a Noise Management Plan is included in the recommendation.

### Traffic and transport

The Addendum Traffic Report by TTM Traffic Engineering dated 29 November 2003 estimates that "the proposed development will generate in the order of 5,000 vehicles per day (in+out) and 600 vehicles per hour during each peak hour". By comparison, the Traffic Report by TTM Traffic Engineering dated 4 September 2003 states that Wardrop Valley Road currently carries in the order of 300 to 350 vehicles per day. TTM also estimates that around 20% of vehicles generated by the industrial development will be "commercial vehicles", and notes that the development will cater for B-Doubles.

These figures relate to the expected traffic demand from the industrial subdivision once the proposed new lots are occupied by industrial development, and represent a substantial increase in both traffic volumes and heavy vehicles using the road.

The impact of the proposed traffic generation of the completed development on both the local and wider road network has been investigated by Council's Traffic and Transport Engineer, who advises that, subject to the upgrading recommended in his proposed consent conditions, the road network is capable of accommodating the increased traffic.

The increased traffic will change the characteristics of Wardrop Valley Road eastwards to the proposed industrial development access point from a relatively low volume rural road to one carrying a much higher volume of traffic, including trucks and B-Doubles. This will impact upon the travelling amenity of adjoining landowners and other road users. However, a substantial increase in traffic is inevitable with the establishment of a large

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industrial estate on the site, and the potential for that has been public knowledge for many years, based on the industrial zoning of the land.

The acoustic impact on residents and road users arising from increased traffic is dealt with above as a separate issue.

Because of the long term planning for industrial development on the site and the capability of the road network to accommodate the projected traffic growth based on the recommended conditions, the increased traffic impacts were predictable and are acceptable.

### Rural residential character and amenity

As discussed above, it is inevitable that the introduction of a large industrial area into what is presently a quiet rural area will change the locality's rural character and amenity. The projected increased traffic can be managed to accepted standards by requiring the necessary road upgrading. Visual impacts can be managed through the Landscape Management Plan process as proposed in the recommended consent conditions.

The major character/ amenity-related issue is the impact of construction noise. This is discussed in detail above, and a detailed deferred commencement condition is recommended, aimed at managing construction noise to acceptable levels.

### Job creation and economy

The submission from TEDC dated 3 November 2003 predicts that the ultimate development of the site for industrial purposes will yield a minimum of 2827 jobs. This estimate is based on the minimum job creation projections in the findings of the 2001 Coolangatta Airport Enterprise Park Feasibility Study by SGS economic consultants. That report predicts the creation of 21 to 55 jobs per industrial hectare and a multiplier of 1.992 for flow-on jobs for industrial land. Council's economic planner supports the estimates.

Tweed Shire has a high growth rate, low per capita income and high unemployment rate by comparison with the NSW average, and the creation of additional direct job opportunities and resultant flow-on effects in the community is desirable from the social and economic viewpoints.

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### **Cumulative Impacts**

Council's Environmental Health Officer advises that the elimination of an extensive Acid Sulfate Soils "problem area" as a result of the proposed filling of low lying parts of the site will result in a positive environmental outcome.

It is inevitable that the conversion of the area from rural to industrial will bring significant changes in matters such as noise, traffic and general activity as a result of future development of the proposed industrial lots. As discussed elsewhere in this report, future development proposals for the lots that are created by the proposed subdivision will be subject to separate application and approval processes, which will include consideration of potential environmental impacts and management measures.

### **(c) Suitability of the site for the development**

The site has many constraints that are detailed in this report. Some of the more significant constraints are highly variable topography, flood liability, acid sulfate soils, quiet rural location adjoining rural residential residences and quiet rural road access. Nevertheless, the site has been zoned to accommodate industrial development for many years and this has been public knowledge.

The evaluation contained in this report confirms that the site is suitable and capable of being developed for the industrial development that it is zoned to accommodate, subject to the recommended consent conditions.

### **(d) Any submissions made in accordance with the Act or Regulations**

As discussed in Section 4, the development application was advertised and exhibited on two separate occasions in accordance with the requirements of DCP 42, the Act and Regulations. The issues raised in submissions received as a result of those exhibitions, and comments thereon, are précised in Appendices A and B.

### **(e) Public interest**

As discussed throughout this report, the site has been zoned for many years for industrial purposes. The current development application recognises that zoning.

The evaluation demonstrates that, apart from the construction noise issues, the proposed development can be undertaken in a way that complies with relevant standards, policies, guidelines and accepted practice. The

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constructing noise issues identified by the applicant's noise evaluation are discussed above in detail and are proposed to be dealt with by a comprehensive deferred commencement condition.

There is a real and demonstrated demand for industrial land in the Tweed Shire and the Murwillumbah locality. Industrial land is a very scarce commodity and despite its best efforts Council is finding it very difficult to identify sufficient new industrial land to meet the identified demand. There is significant social and economic benefit to the community in proceeding with the proposed development if it can be achieved in a way that restricts adverse impacts to acceptable levels. The recommended consent conditions are aimed at achieving that outcome.

On that basis the proposed development is consistent with the public interest.

### **OPTIONS:**

1. Grant consent to the development application subject to the conditions contained in the recommendation.
2. Grant consent to the development application subject to other conditions.
3. Refuse consent to the development application. If Council were to choose this option it would be appropriate to review the zoning status of the subject land.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant may appeal to the Land and Environment Court in the event that it is dissatisfied with Council's determination of the development application.

### **POLICY IMPLICATIONS:**

The proposed development is consistent with Council's strategic and development control policies, other than construction noise criteria, and is consistent with Council's long term aim of achieving industrial development on the subject land.

### **CONCLUSION:**

The subject land is zoned for industrial development, but is affected by environmental and social constraints that are identified and evaluated throughout this report. The evaluation process itself has been involved and detailed, and has led to significant changes to the original proposals. During that process the applicants have been required to furnish substantial detailed assessment information and a three-phase community consultation process has occurred.

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The application is now at a stage where it can be assessed and determined by the Council. This report provides a detailed evaluation of the constraints, issues and statutory obligations that the Council must consider in determining the application. The report concludes and recommends that Deferred Commencement consent is warranted.

### UNDER SEPARATE COVER:

1. Extract from RTA Environmental Noise Management Manual
  2. Proposed subdivision plan by NC White & Associates dated 4/9/2003 (Sheets 1 and 2)
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