



# **AGENDA**

## **PLANNING COMMITTEE MEETING**

**Tuesday 12 August 2008**

**Chairman: Mr Max Boyd AM**

**Administrators: Mr Max Boyd AM  
Mr Garry Payne AM**

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## REPORTS THROUGH GENERAL MANAGER

### REPORTS FROM DIRECTOR PLANNING & REGULATION

#### MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

#### MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
  - (a) the provisions of
    - (i) any environmental planning instrument; and
    - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
    - (iii) any development control plan, and
    - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
  - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
  - (c) the suitability of the site for the development,
  - (d) any submissions made in accordance with this Act or the regulations,
  - (e) the public interest.

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**P1 [PR-PC] Court Judgement in Relation to DA07/0022 for Multi Dwelling Housing Comprising 7 Units at Lot 9 DP 14141 No. 21 Tweed Coast Road, Hastings Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA07/0022 Pt3**

**SUMMARY OF REPORT:**

Council is in receipt of the NSW Land and Environment Court Judgement in relation to DA07/0022 for multi dwelling housing comprising 7 units at Lot 9 DP 14141 No. 21 Tweed Coast Road, Hastings Point.

The Judgement declares the consent (issued by Tweed Shire Council) as "void and of no effect".

**RECOMMENDATION:**

**That the judgement of the NSW Land and Environment Court report be received and noted.**

## REPORT:

DA07/0022 sought approval for a 3-storey multi-dwelling housing development at 21 Tweed Coast Road, Hastings Point.

The application initially proposed a 3-storey residential flat building, but, after considerable consultation with Council Planning Officers the proposal was substantially modified to a townhouse styled development comprised of three separate building components of two and three bedroom townhouse / units of three storeys (total of 7 units). The amended proposal was considered to represent a good planning and design outcome for the site and locality generally.

Subsequently Council approved the Development Application subject to conditions of consent.

The DA was challenged in the NSW Land & Environment Court by Hastings Point Progress Association Incorporated. The nature of the appeal focused on two matters of procedure (as the Appeal could only relate to procedure and NOT merit);

1. That Council failed to consider cumulative impact; and
2. That Council's decision was manifestly unreasonable.

The appeal was unsuccessful on the second argument of manifestly unreasonable and therefore this aspect of the case was denied.

However, Justice Pain determined that Council failed to adequately consider cumulative impact which was a statutory requirement of Clause 8 of the Tweed LEP 2000 (see attachments).

Council did not actively defend the case and only put on a submitting appearance by allowing the case to be defended by the applicant.

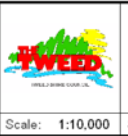


**SITE DIAGRAM:**



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*Tweed Shire Council*  
**Lot 9 DP 14141**  
**No. 21 Tweed Coast Road, Hastings Point**  
 File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Batchelor Date: 18/May/2007



PLANNING REFORMS UNIT  
**Site Plan**  
 Scale: 1:10,000 Sheet: 1 of 1

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council did not actively defend this case and only put on a submitting appearance thus allowing the case to be defended by the applicant. Council's legal expenses in relation to this case have been minimal to date.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

Despite the decision Council is still of the view that the planning assessment had regard for cumulative impact.

Council negotiated a modified development to represent town houses rather than a three storey residential flat building, this action alone shows regard for cumulative impact. Furthermore, the whole Council report was a cumulative impact assessment by ensuring that the development had regard for flooding, acid sulfate soils, the environment, the streetscape and the overall bulk and scale of the development.

However, despite all this Council did not have a heading Clause 8 1(c) Cumulative Impact.

Council will need to ensure all future assessments meet the statutory obligation as interpreted by the Court as per this Judgement.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. 1<sup>st</sup> Judgement in relation to DA07/0022 and DA06/0413 - 6 June 2008 (DW 1871912)
  2. 2<sup>nd</sup> Judgement in relation to DA07/0022 - 31 July 2008 (DW 1871915)
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**P2 [PR-PC] Court Judgement in Relation to DA06/0413 for a Staged Seniors Living Development under SEPP (Seniors Living) 2004 Comprising 91 Independent Living Units, 94 Supported Living Units and 67 Beds within a High Care Facility at Lot 1 DP 786570 No. 87-**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/0413 Pt9**

**SUMMARY OF REPORT:**

Council is in receipt of the NSW Land and Environment Court Judgement in relation to DA06/0413 for a staged seniors living development under SEPP (Seniors Living) 2004 comprising 91 independent living units, 94 supported living units and 67 beds within a high care facility at Lot 1 DP 786570 No. 87-89 Tweed Coast Road, Hastings Point.

The Judgement declares the appeal is dismissed and the decision (issued by Tweed Shire Council) as "valid".

The Hastings Point Progress Association Incorporated has since served Council with a notice of intention to appeal this Land and Environment Court decision in the Supreme Court (Court of Appeal). The progress of this subsequent action will be reported to Council as it proceeds through the Court system.

**RECOMMENDATION:**

**That:**

- 1. The judgement of NSW Land and Environment Court be received and noted.**
- 2. Council defend any subsequent Supreme Court Appeal.**

## **REPORT:**

DA06/0413 sought approval for a staged seniors living development under SEPP (Seniors Living) 2004 comprising 91 independent living units, 94 supported living units and 67 beds within a high care facility at Lot 1 DP 786570 No. 87-89 Tweed Coast Road, Hastings Point.

The application was approved by Council subject to conditions of consent.

The DA was challenged in the NSW Land & Environment Court by Hastings Point Progress Association Incorporated. The nature of the appeal focused on two matters of procedure (as the Appeal could only relate to procedure and NOT merit);

1. That Council failed to consider cumulative impact; and
2. That Council's decision was manifestly unreasonable.

The appeal was unsuccessful on both counts and therefore the case was dismissed.

Council did not actively defend the case and only put on a submitting appearance by allowing the case to be defended by the applicant. However, the applicant subpoenaed Council Officers to appear and give evidence in relation to this matter. See Attachment 1 under Item No. 1 of this Agenda for a copy of the Judgement.

The Hastings Point Progress Association Incorporated has since served Council with a notice of intention to appeal this Land and Environment Court decision in the Supreme Court (Court of Appeal). The progress of this subsequent action will be reported to Council as it proceeds through the Court system.

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

Council did not actively defend this case and only put on a submitting appearance thus allowing the case to be defended by the applicant. Council's legal expenses in relation to this case have been minimal to date.

Should the Hastings Point Progress Association Incorporated continue with the Appeal in the Supreme Court additional legal costs may be incurred.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. See Attachment 1 under Item 1 of this Agenda (DW 1871912)
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**P3 [PR-PC] Amendment and Re-exhibition of Draft Pottsville Locality Plan and Development Control Plan**

**ORIGIN:**

**Planning Reforms**

**FILE NO: GT1/LEP/2006 Pt7**

**SUMMARY OF REPORT:**

This report has been prepared to provide an update on the current status of the draft Pottsville DCP and Locality Plan, which were commenced in May 2007. Of particular note, the report outlines the content of additional information arising from consultation with the NSW Department of Lands and that sourced by way of a retail sustainability assessment, which was prepared by MacroPlan Australia on commission. This new information was collected while the draft Plans were on public exhibition during May to June of this year.

A review of the additional information indicated that there is a need within the draft Plans to provide greater clarification as to how the future development of Pottsville, in particular the existing village centre, should occur. This would include locating any new major retail development within the existing village centre to support other activities including business, community, and tourist related visitation, and discouraging any major out of centre retail or commercial development. The amendments would also provide greater certainty in delivering on the principles of the adopted Pottsville Village Strategy, that have either not been met to-date or continue to provide an appropriate direction for the sustainable growth of Pottsville, and the objectives of the Retail Strategy.

This report recommends amendments to the draft Pottsville Plans to reflect the findings of the draft MacroPlan report, and that the updated plans be re-exhibited. The amendments are to be undertaken by Council's Planning Reform Unit in time to re-exhibit the draft Plans through September, and made ready for consideration by the incoming council thereafter.

The MacroPlan; draft *Pottsville Retail Sustainability Assessment*, has not been provided as part of this report as it requires further refinement prior to its concurrent public exhibition with the draft Pottsville Plan.

**RECOMMENDATION:**

**That Council receives and notes the report, and endorses the amendment and re-exhibition of the draft Pottsville Development Control Plan and Locality Plan, and the concurrent exhibition of the MacroPlan; draft *Pottsville Retail Sustainability Assessment*.**

**REPORT:****Background:**

Council resolved in May 2007 to prepare a Locality Plan and Development Control Plan for the Pottsville area, and since then the draft Plans have been prepared and publicly exhibited. Their purpose is to establish a long-term planning vision for Pottsville that will maintain the consistency of the established strategic planning direction for the area. This will be achieved in-part by continuing to build on the objectives and principles embodied in the adopted Pottsville Village Strategy, parts of which have become out dated. A rationalisation of the past and present strategic planning objectives will be required to meet the needs and expectations of the community.

Council's Retail Strategy, as adopted in 2005, identifies that additional retail development may be required in the Pottsville area provided it is not to the detriment of other local communities and/or villages along the Tweed Coast. This is a catchment based approach that is based on each of the village centres providing a scale of development that is sustainable on the localised population of each area. In particular, Council resolved that 'the character of existing towns and villages and the retail facilities they already have be protected' and "where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones" per the Council resolution on the Core Economic Retail Strategy of 16 November 2005.

Preliminary research on the draft Plans indicated that the major retail chains, such as, Coles and Woolworths, worked off a population catchment ratio of approximately 7,000 – 8,000 persons for the sustainable provision of a mid/full-line supermarket, with a desirable ratio of 10,000 – 12,000 persons for the larger stores. It also indicated that the population catchment of Pottsville may grow beyond 10,000 persons in the longer term, subject to the full development of the Pottsville urban release land identified in the Far North Coast Regional Strategy ('Dunloe Park') and the appropriate densification of other appropriately zoned land. On that basis, it was foreseeable that additional retail development within the Pottsville catchment would be sustainable at varying stages over time, but, ultimately culminating at some point in the future when the population catchment would be sufficient to accommodate a full-line supermarket.

However, the delivery of new residential land to the market remains very uncertain and has been complicated by several issues. Firstly, the draft Tweed Urban Release Strategy (URS) has identified the timing for consideration of any rezoning over the major release area of 'Dunloe Park' to be between 0-10 years. Lead-in times for rezoning and development of large scale residential development is usually between 4-8 years, resulting in a potential delivery to the housing market starting anywhere from 2015 to 2020 or beyond. Secondly, notwithstanding the draft URS Council resolved on 22 April 2008 to nominate Section 11.3 (Urban Consolidation and Existing Zoned Land) of the URS as Council's preferred growth option, which has the potential to further extend the timeframe before any rezoning processes could occur. The population projection analysis in the MacroPlan report identifies that, excluding the Dunloe Park release area,



there will be a trade area based population of approximately 8,000 people by 2016, and that it would be sufficient to support a full line supermarket of around 2000 to 2500m<sup>2</sup>.

In response to the broader economic issues emerging from proposed retail development at Pottsville and other parts of the Tweed Coast, the firm MacroPlan Australia, a national company with industry recognition for their planning based work in the areas of commercial and retail economics, was commissioned to prepare the Draft Pottsville Retail Sustainability Assessment report.

A draft report was received from MacroPlan in July and the key findings of their sustainability analysis of relevance to the population/retail floor area equation were as follows:

- Based on projected population growth and retail expenditure growth in the trade area and also beyond the trade area demand (i.e. tourists), there is additional demand today (2008) for an additional 1,157m<sup>2</sup> of supermarket floor space within Pottsville (i.e. the difference between supermarket demand and supermarket supply);
- Based on the retail sustainability assessment, a full line supermarket is not recommended at this time;
- The existing provision of non-supermarket retail floor space (e.g. restaurant, cafe, bottle shop, non-food, and retail services) is currently in balance (i.e. where demand is met by supply);
- By 2016, growth in population and retail expenditure is likely to result in the potential for a full line supermarket in Pottsville Village of around 2,500m<sup>2</sup>. There is also potential for an additional 1,100m<sup>2</sup> of new non-supermarket retail floor space by 2016; and
- There will also be potential for additional small local centres (i.e. around 500m<sup>2</sup> of supermarket floor space and 500m<sup>2</sup> of specialty floor space such as newsagents, cafes and hairdressers) that serve their immediate catchment. The size of these centres should be restricted so that the potential for a full line supermarket is preserved in the Pottsville Village Centre.

The last Point above is consistent with, among others, Principle 5.5 of the Pottsville Village Strategy and has been presented as a discussion issue in the MacroPlan report, which states:

*A critical issue identified from MacroPlan's review of relevant strategic documents is that the exhibited draft DCP nominates a 2,000 to 3,500m<sup>2</sup> supermarket and speciality shops potential at the Seabreeze Estate or Dunloe Park. This out of centre development (OCD) will shift the central focus of the Village Centre away from existing specialty shops and the Village Centre business core.*

*If adopted, this shift is likely to result in wider implications for the retailing and business environment, including changes to resident and tourist spending patterns, and potential closure of the IGA supermarket and specialty shops within the existing town centre core.*

*This also has significant implications for businesses that draw off this retail and pedestrian activity (e.g. community facilities, real estate agents, accountants, legal services, doctors, etc). These potential outcomes are inconsistent with current retail strategies including the draft DCP objective to "maintain the strength of the existing Pottsville Centre within the hierarchy" and with Councils resolution (November 2005) that "where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones".*

The issues raised in the MacroPlan report above demonstrate that the present draft Pottsville Locality Plan and DCP require some additional refinement as it relates specifically to the commercial / retail provisions of the Plans.

In addition, sites suitable to accommodate a new major retail development, more specifically a full-line supermarket, have been known or identified (Pottsville Village Strategy) within the existing village centre for sometime. There has previously been however a perception that due to other constraints, particularly land availability and traffic related matters, that the village centre might have had limited ability to expand.

This position changed recently when the NSW Department of Lands approached Council and advised that their land, which is positioned behind the existing commercial premises on the northern side and parallel to Coronation Avenue, could be made available for retail/commercial expansion if it supported the strengthening of the existing village centre as the primary commercial and retail hub of Pottsville. This has changed the current view not only on the availability of land having the potential suitability to accommodate a large supermarket and commercial floor area within the village centre, but, would also likely present opportunities for improving the local road network as well.

Whilst it is not intended to provide a detailed commentary on the content and recommendations of the MacroPlan report it is critical to note that the findings of the report, as discussed earlier, support the expansion of the existing village centre as opposed to the growth of new competing centres. In this regard, the report states that the newer residential areas should be serviced with a neighbourhood shop of sufficient size to cater to the daily convenience needs of the local residents, but, should not exceed a floor area of 1000m<sup>2</sup> in total where 500m<sup>2</sup> maximum would be utilised for retail.

The following points in relation to the MacroPlan report are also noteworthy at this stage:

### Supermarket potential

- Demand today (2008) is estimated at an additional 1,157m<sup>2</sup> of supermarket floor space within Pottsville.
- A full line supermarket is not recommended at this time.
- By 2016, (and assuming no change to existing supply), there is an estimated additional need for 2,660m<sup>2</sup>.

### Location

- **Importance of locating a full line supermarket in the existing Village Centre:** When viable, a full line supermarket development in Pottsville should be located in the existing Village Centre to ensure it acts as a major anchor for retail, tourist, commercial and community activities. This provides a focus of activity within Pottsville and supports the Village in achieving its role within the retail hierarchy, promotes a vibrant mixed use centre and evokes sense of community. It also will provide a catalyst for the centre in developing over the next 10-15 years.
- **Multi Purpose Trips:** Opportunities for multi purpose vehicle trips will be enhanced with the co-location of retail business and community services in the one centre. A failure to provide a full line supermarket in the Pottsville Village Centre will discourage multipurpose vehicle trips as existing and future residents in Pottsville will be forced to travel to multiple destinations to carry out shopping and business activities.
- **The MacroPlan Report Notes:** that given visitor and tourist numbers and the economic importance to the village centre of a strong tourist retail sector, consideration should be given to linkages between the current core civic, restaurant, education and commercial areas.
- **Potential locations for a full line supermarket** The DDCP however identifies Seabreeze or Dunloe Park as the only potential location for a full line supermarket due to the constraints within the village centre area. This situation has changed recently with the Department of Lands confirming that they would consider commercial development (subject to appropriate environmental investigation) of their land holdings within the Village Centre. Given the economic and social importance of maintaining the strength of the existing Pottsville Centre, this new potential for a full line supermarket in the Village Centre should be explored.

### **Major retail development**

- Full line supermarket defined: The DDCP notes that full line supermarkets are around 2,000m<sup>2</sup> to 3,500m<sup>2</sup> in floor area. Larger supermarkets of around 3,000-3,500m<sup>2</sup> typically supply an expanded 'non-food' offer which is unlikely to be required in Village Centres.

- While this is true in urbanised areas, the average supermarket floor space size in regional and/or coastal locations is generally at the lower end of this range, particularly if they are already well serviced by larger regional centres which have full line supermarkets (e.g. Tweed Heads and Tweed South).
- **Full line supermarkets in the context of Pottsville:** In the context of coastal locations along the Tweed Coast, full line supermarkets are likely to deliver floor areas of around 2,000 - 2,500m<sup>2</sup>. It is noted that the retail sustainability assessment found that by 2016, there is potential for a full line supermarket of around this size in Pottsville.
- Recent examples of regional supermarket development include the approved Mullumbimby supermarket (2,500m<sup>2</sup>), and the proposed Casuarina (2,500m<sup>2</sup>) and Cabarita (2,403m<sup>2</sup>) supermarkets.
- The MacroPlan report suggests that the draft DCP nominated retail floor space for a full line supermarket should be revised down to 2,000m<sup>2</sup> to 2,500m<sup>2</sup> and should only be provided when there is sufficient demand (i.e. 2016).

*Other Key points to note are:*

- A share of the demand could be provided at Seabreeze Estate and may comprise a supermarket of around 500m<sup>2</sup>, which would be appropriate. This would provide an adequate mix of food retailing to meet the local needs of the Seabreeze Estate residents.
- Not all of the existing demand should be provided at Seabreeze Estate as it will be important to preserve the future potential for a full line supermarket in the Pottsville village centre.
- By 2016, there is likely to be potential for a full line supermarket in Pottsville. This is in line with Pottsville achieving a resident population of around 7,000 people.
- It is anticipated that potential for a full line supermarket in the order of 2,500m<sup>2</sup> would then be achievable in the village centre.

Strategic Considerations

*With the above in mind:*

- Proposals for development or expansion of activities remote from activity centres should be discouraged by giving preference to locations in the existing village centre.
- Small local centres (such as Seabreeze Estate and the future release area of 'Dunloe Park'), providing for a limited mix of uses to meet the local convenience needs of residents, should be acceptable where:

- i. There is a demonstrated need – retail needs assessments would be based on a localised catchment (i.e. the residential estate).
- ii. The local centre can be positioned in-board of the closest major arterial road, not visible from major roads.
- iii. Size and composition of the centre does not compete with the Pottsville village centre. A floor space guide of 1,000sqm may be appropriate to be put in place with regard to the total size of local centres.

Restrictions of this kind will help Pottsville establish a clear hierarchy of centres within the Pottsville area (i.e. a village centre that is supported by small local centres) and ensure a focus of activity within Pottsville that supports the village in achieving its role within the retail hierarchy, promoting a vibrant mixed use centre and a sense of place for the community. It should also provide a catalyst for the centre in developing over the next 10-15 years, sufficient to attain the Council's adopted position as stated in its resolution (November 2005) that "where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones".

## Conclusions

In light of the change in availability of potentially suitable development land in the Pottsville village centre and on the recommendations of the draft *Pottsville Retail Sustainability Assessment* prepared by MacroPlan the following actions are considered necessary:

1. Amend the draft DCP/Locality Plan:
  - i. By improving the objectives and controls in respect of requiring new major retail development to occur within the existing town centre,
  - ii. By redefining the guiding principles in relation to out of centre development, in particular the floor size provisions of retail development,
  - iii. By clarifying the need for sustainability assessments for all out of centre commercial and retail development, and major retail development within the village centre,
  - iv. By reinforcing through the planning objectives the importance of the village centres primacy in the commercial / retail hierarchy of Pottsville, and
  - v. To review any incidental provisions of the plans that would assist in achieving a vibrant mixed-use village centre.
2. To re-engage the Pottsville and broader community through re-exhibition of the draft Plans

The above amendments will reinforce the Pottsville locality as the total population catchment area for the purposes of determining the sustainability and requirement for further retail/commercial floor area, but, in particular a full-line supermarket. This will assist in ensuring that any future retail/commercial development decision is not founded on the overlapping of localised catchments of neighbouring areas, which might otherwise

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jeopardise the viability of development in those areas or prematurely advance an approval in Pottsville that is not presently sustainable within the limits of its own catchment. This will ensure that the best option for the growth of the village centre is taken into account in any decision making for the Pottsville locality, in particular to:

- Ensure the strategic objectives for the Tweed Coast are met.
- Ensure viability of the existing village centre.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Amendment to the DCP and Locality Plans is to be undertaken in-house, as such there is no financial implication and the Planning Reform Unit resourcing can adequately cover the requirements of the project. There are no foreseeable legal implications.

**POLICY IMPLICATIONS:**

There are no adverse policy implications, the proposed amendment to the draft Plans will ensure that future development arising under the Plans will accord with Council's adopted policy position.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**P4 [EO-PC] Subdivision Manual (Section A5 of the Tweed Development Control Plan)**

**ORIGIN:**

**Planning & Infrastructure**

**FILE NO: GT1/DCP/16; GT1/DCP/A5**

**SUMMARY OF REPORT:**

Council's Development Control Plan Section A5 – Subdivision Manual has been amended to take account of Council's Floodplain Risk Management Study and Plan and, in particular, the requirements of Part 3 of the *Tweed Valley Floodplain Risk Management Study - Habitable Land Use on the Floodplain*.

The draft DCP also includes amendments to reflect recent changes to legislation and the certification procedures for Subdivision Works Accredited Certifiers (SWACs).

The draft DCP has been exhibited in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000, with two (2) submissions received. No changes to the exhibited draft are proposed in response to these submissions.

**RECOMMENDATION:**

**That Council:-**

- (a) In accordance with the Environmental Planning and Assessment Regulation 2000, repeals the existing version of Development Control Plan Section A5 – Subdivision Manual and**
- (b) In accordance with the Environmental Planning and Assessment Regulation 2000, approves as a replacement draft Development Control Plan Section A5 – Subdivision Manual (August 2008) attached to this report.**
- (c) Reviews the flood related controls in Development Control Plan Section A5 - Subdivision Manual as part of the ongoing Tweed Valley Floodplain Risk Management Study.**

**REPORT:****a) Flooding**

Since the completion of the Tweed Valley Flood Study in late 2005, Council officers have been working with the State Emergency Service (SES) to update the Local Flood Plan for the Tweed Shire. While contemporary subdivision design, as currently prescribed in Sections A3 and A5 of the DCP, provides a standard suitable for the protection of property (the ARI 100 year flood level plus a freeboard to all habitable development), there is currently little or no consideration of the protection of life in subdivision design when considering larger floods up to the probable maximum flood (PMF).

As large scale residential development has progressed in areas such as Banora Point and West Kingscliff without such consideration, the SES has surmised that there are several thousand people who will be trapped in their homes during a major flood with no means of unassisted evacuation should water levels continue to rise. A rescue operation of that magnitude is unfeasible for the SES at current resourcing levels. Further "low island" subdivision design will only exacerbate this potentially disastrous situation, so it is important that this issue be properly addressed in the forthcoming land release areas in Cobaki Lakes, Kings Forest and West Kingscliff via DCP amendments.

The DCP has been amended to take account of Council's Floodplain Risk Management Study and Plan and, in particular, the requirements of Part 3 of the *Tweed Valley Floodplain Risk Management Study - Habitable Land Use on the Floodplain*. Significant in terms of future subdivision proposals in Tweed Shire the Study requires that *"all flood prone allotments (those below probable maximum flood level) are located in proximity to high level flood evacuation routes..."*

Such measures ensure that the occupants of new residential subdivisions can respond appropriately to a flood emergency and evacuate from their premises to land that is above the PMF level (that is, not flood liable) without the assistance of the SES. In smaller infill subdivisions where high level evacuation routes are not feasible due to existing land use patterns and infrastructure, shelter in place measures have been mandated, so that residents can remain safely in-situ for the duration of the flood.

These amendments also bring the DCP into line with the recently adopted Flood Risk Management Policy (18 December 2007).

On 31 January 2007, the Department of Planning (DoP) released a Planning Circular (PS 07-003) and a new Guideline concerning flood related development controls on residential development on land above flood planning level (Q100 + freeboard). Of relevance to the current draft amendments, the Guideline stated that:

*"...unless there are exceptional circumstances, councils should adopt the 100 year flood (plus freeboard, per correspondence from the Department of Planning) as the FPL (flood planning level) for residential development. In proposing a case for exceptional circumstances, a Council would need to demonstrate that a different FPL was required*



*for the management of residential development due to local flood behavior, flood history, associated flood hazards or a particular historic flood.*

*Unless there are exceptional circumstances, councils should not impose flood related development controls on residential development on land with a low probability of flooding, that is, land above the residential FPL (low flood risk areas).*

*Justification for variations to the above should be provided in writing to, and agreed by, the Department of Natural Resources and the Department of Planning prior to exhibition of a draft local environmental plan or a draft development control plan that proposes to introduce flood related development controls on residential development."*

As detailed above, the planning controls proposed in the Draft DCP have already been through the exhibition and adoption process for the Part 3 Floodplain Risk Management Study and the Flood Risk Management Policy, and no objections were received in relation to the Guideline. During the exhibition period for these documents, both DoP and DECC (formerly DNR) were asked to provide their concurrence on exceptional circumstances (11 October 2007). DECC approved the case for exceptional circumstances, however formal concurrence is yet to be provided from the Director General of DoP, although it has support at the local officer level.

Additional requests for concurrence for the draft DCP amendments under the Guideline were sent to the Directors General of both Departments on 29 May 2008. No responses (other than acknowledgement letters) have been received to date.

Whilst the DoP circular says that Councils "should" seek concurrence for planning controls above 100 year flood plus freeboard, the use of the word "should" indicates that this is advisory rather than mandatory. It is understood that concurrence is supported by officers at Regional level in both DoP and DECC, however it has been 10 months since these measures were first proposed, and 2 months since the DCP was placed on public exhibition, without a reply from either Director General. Given the delay in receiving this advice and the necessity to implement controls on DAs for habitable uses on the floodplain, it is proposed to proceed with adoption of the draft DCP changes, whilst formally undertaking to review these controls as part of the current Tweed Valley Floodplain Risk Management Study. This review will occur over the next 18 months.

## **b) Subdivision Works Accredited Certifiers**

Recent changes to the certification procedures for Subdivision Works Accredited Certifiers (SWACs) by the Board require amendments to Council's Subdivision Manual.

In March 2007 the Building Professionals Board introduced a new scheme for the accreditation of Professional Engineers as private certifiers. The Building Professional Board has now assumed the responsibilities previously undertaken by the Institution of Engineers Australia for the accreditation of Professional Engineers in accordance with the Accreditation Scheme for Certifiers under the Environmental Planning and Assessment Act (NSW) July 2000.

Councils Subdivision Manual – A5 requires that a Subdivision Works Accredited Certifier (SWAC) be appointed by the subdivider to ensure that works are completed in accordance with Council’s standards and the conditions of consent. The proposed amendments to the Subdivision Manual – A5 ensure that SWAC’s are accredited in accordance with the Building Professional Board. Council’s Coordinator Major Subdivisions has made some additional comments and clarifications in this regard during the exhibition period, which are reflected in the final draft.

**c) Housekeeping Amendments**

Other minor housekeeping amendments have been provided by Council's Development Engineers to clarify the current requirements for developers, including minimum street frontage and access width requirements.

**Public Submissions**

The draft DCP was exhibited from 7 May to 4 June 2008. During the exhibition period two (2) public submissions were received. These are summarised in the following table:

<b><i>Author</i></b>	<b><i>Date</i></b>	<b><i>Issue</i></b>	<b><i>Comments / Actions</i></b>
J. Maleki	2/6/08	Discussion on the importance of the Tweed's bio-diversity, including wetland protection, rainforest buffers, koala and bird habitat, and light pollution	No comments in relation to the flood related amendments. No action.
Anonymous via email	30/4/08	Objection to subdivision restrictions	Comments do not relate to the draft controls. No action.

**DCP Amendment Summary**

During exhibition, Council officers recommended that the Planning Reforms Unit implement a system of tracking amendments of the various DCP sections by date, version number, or alternate means, for future reference. This is of particular relevance to large subdivision approvals which may take many years to approve and carry out, and to court related approvals and appeals. On preliminary discussions, the Acting Coordinator Planning Reforms has agreed to implement such a system. The following table summarises the amendments to Section A5 for inclusion in the tracking system:

<b>Clause</b>	<b>Description</b>
Table 2.1	Update table to reflect upgrade of East Murwillumbah / Dorothy St levees
A5.3.4	Add evacuation route considerations to road layout design
A5.4.4	Add occupant safety as an objective to floodplain development
A5.4.7	Amend "Flood Liable Land" clause to account for emergency response for residential subdivision, in accordance with floodplain risk management plans and Section A3.
A5.4.8	Add flood risk to list of constraints to urban structure
A5.4.9	Add proximity to high level evacuation route to criteria for neighbourhood and town structure
A5.4.10	Reference evacuation requirements in A5.4.7
A5.4.12	Define minimum street frontage requirements and right of carriageway width
Table A5-10	Add evacuation routes to infrastructure tables per A5.4.7, and correct outdated section references.
A5.5.2, A5.5.4, A5.5.5	Amend flood emergency response capabilities for rural subdivisions
Table A5-11	Reticulated electricity requirements expanded and & high level evacuation accesses added
A5.C.2	Update SWAC accreditation under Building Professionals Board Scheme

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

The amended DCP A5 will complement Council's Flood Risk Management Policy, while providing greater statutory authority for the new controls.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. Draft Section A5 of the Tweed Development Control Plan Subdivision Manual (August 2008) (DW1871802).

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**P5 [EO-PC] Development of Flood Liable Land (Section A3 of the Tweed Development Control Plan)**

**ORIGIN:**

**Planning & Infrastructure**

**FILE NO: GT1/DCP5; GT1/DCP/A3**

**SUMMARY OF REPORT:**

Council's Development Control Plan Section A3 – Development of Flood Liable Land has been amended to enable implementation of Part 2 (Planning Controls for High Flow Areas) and Part 3 (Habitable Land Use on the Floodplain) of the *Tweed Valley Floodplain Risk Management Study and Plan 2005*.

The draft DCP has been exhibited in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000, with four (4) submissions received. Minor amendments to the exhibited draft are proposed in response to these submissions.

Adoption and implementation of the draft DCP is recommended. While savings provisions have been considered, the proposed development controls have been part of Council Policy since December 2007 and are now being implemented, and therefore no such provisions have been included in the draft DCP.

**RECOMMENDATION:**

**That Council:-**

- (a) In accordance with the Environmental Planning and Assessment Regulation 2000, repeals the existing version of Development Control Plan Section A3 – Development of Flood Liable Land and**
- (b) In accordance with the Environmental Planning and Assessment Regulation 2000, approves as a replacement draft Development Control Plan Section A3 – Development of Flood Liable Land (August 2008) attached to this report.**
- (c) Reviews the Development Control Plan Section A3 - Development of Flood Liable Land as part of the ongoing Tweed Valley Floodplain Risk Management Study.**

**REPORT:**

Council's Development Control Plan Section A3 – Development of Flood Liable Land has been reviewed and amended to enable implementation of Part 2 of the *Tweed Valley Floodplain Risk Management Plan 2005 - Planning Controls for High Flow Areas*, which was adopted on 17 October 2006. The Part 2 Plan included the following implementation measure:-

**"3. Implementation**

- (a) *The development controls should be implemented by an amendment to Development Control Plan No.5 Development of Flood Liable Land. Draft Version 2.4 of DCP5 incorporating these amendments will be publicly exhibited in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000."*

DCP No.5 has been incorporated into the consolidated Shire-wide DCP as Section A3.

The amendments to Section A3 in order to implement the planning controls from the Part 2 Study and Plan are:-

- Additional definitions.
- Addition of development control details for individual zones for land within high flow areas (Section A3.2.4).
- Inclusion of reference to New Map of High Flow Areas in the Tweed Valley contained in the Part 2 Plan.

The DCP also has been amended to enable implementation of Part 3 of the *Tweed Valley Floodplain Risk Management Study - Habitable Land Use on the Floodplain*, which was adopted on 18 December 2007. Controls adopted under the Part 3 Study have already been implemented in Council's new Flood Risk Management Policy, however to give these controls greater statutory authority, they are also proposed for inclusion in DCP-A3.

The amendments to Section A3 in order to implement the planning controls for Part 3 Study are:

- Amended and additional definitions.
- Addition of development control details for various land uses to ensure adequate provisions are made for flood emergency response for all events up to the probable maximum flood (PMF) (Section A3.2.5).

On 31 January 2007, the Department of Planning (DoP) released a Planning Circular (PS 07-003) and a new Guideline concerning flood related development controls on residential development on land above flood planning level (Q100 + freeboard). Of relevance to the current draft amendments, the Guideline stated that:

*"...unless there are exceptional circumstances, councils should adopt the 100 year flood (plus freeboard, per correspondence from the Department of Planning) as the FPL (flood planning level) for residential development. In proposing a case for exceptional circumstances, a Council would need to demonstrate that a different FPL was required for the management of residential development due to local flood behavior, flood history, associated flood hazards or a particular historic flood.*

*Unless there are exceptional circumstances, councils should not impose flood related development controls on residential development on land with a low probability of flooding, that is, land above the residential FPL (low flood risk areas).*

*Justification for variations to the above should be provided in writing to, and agreed by, the Department of Natural Resources and the Department of Planning prior to exhibition of a draft local environmental plan or a draft development control plan that proposes to introduce flood related development controls on residential development."*

As detailed above, the planning controls proposed in the Draft DCP have already been through the exhibition and adoption process for the Part 3 Floodplain Risk Management Study and the Flood Risk Management Policy, and no objections were received in relation to the Guideline. During the exhibition period for these documents, both DoP and DECC (formerly DNR) were asked to provide their concurrence on exceptional circumstances (11 October 2007). DECC approved the case for exceptional circumstances, however formal concurrence is yet to be provided from the Director General of DoP, although it has support at the local officer level.

Additional requests for concurrence for the draft DCP amendments under the Guideline were sent to the Directors General of both Departments on 29 May 2008. No responses (other than acknowledgement letters) have been received to date.

Whilst the DoP circular says that Councils "should" seek concurrence for planning controls above 100 year flood plus freeboard, the use of the word "should" indicates that this is advisory rather than mandatory. It is understood that concurrence is supported by officers at Regional level in both DoP and DECC, however it has been 10 months since these measures were first proposed, and 2 months since the DCP was placed on public exhibition, without a reply from either Director General. Given the delay in receiving this advice and the necessity to implement controls on DAs for habitable uses on the floodplain, it is proposed to proceed with adoption of the draft DCP changes, whilst formally undertaking to review these controls as part of the current Tweed Valley Floodplain Risk Management Study. This review will occur over the next 18 months.

### **Public Submissions**

The draft DCP was exhibited from 7 May to 4 June 2008. During the exhibition period four (4) submissions were received. These are summarised in the following table:

<b>Author</b>	<b>Date</b>	<b>Issue</b>	<b>Comments / Action</b>
O. Vidler	3/6/08	Direction taken can only improve the management of Flood Liable Land, however plan is only as good as its implementation.	Refer following section on implementation
		Support inclusion of fill limits	Noted
		Support consideration of PMF refuges	Noted
		Concerned plan may encourage raising of Final Rd to create an evacuation route. Such works would obstruct flood flows and increase the flood threat.	Evacuation routes will be examined in detail in Tweed Valley Floodplain Risk Management Study. Such works would need to consider flood impact.
		Locality name in Table 5.1 should read Fingal <u>Head</u> .	Agreed and amended
F. Raye	3/6/08	Flood flow in Lower Tweed is controlled by maturity of cane crop at the time of flooding and the odd house or shed will have minimal effect on flood levels	Flood modelling accounts for the effects of cane crops. High flow controls apply only to specific area of the floodplain, and take into account the cumulative impacts of future development, for the range of uses permissible in rural zones.
		Objects to provision of PMF refuges on rural dwellings. Such rules are made by people who have never lived in a flood zone. Residents should invest in boats to evacuate. Imposes additional expense on landholders.	Given limited flood warning times evacuation of flooded properties by land is severely limited, shelter in place option is provided as an alternative for the full range of floods. Acknowledge additional cost for new houses, however SES is unable to provide rescue services to all residents, so is in interest of public safety. Many Shire residents have little or no experience of floods, so are unprepared for appropriate response.



<p>C. Cherry, Wooyung Action Group</p>	<p>3/6/08</p>	<p>It is negligent to sign off on the DCP while flood level data in Coastal localities is incomplete. Many such areas are under heavy development pressure, so need to include the current information in planning guidelines.</p>	<p>Coastal Creeks Flood Study is currently underway, and is due for completion at the end of the year. In 2009 a further revision of the DCP will be undertaken to include the most up to date data in these areas. Revised development controls are considered necessary to address current development pressures, and it is not considered appropriate to delay implementation of these controls for completion of the Flood Study.</p>
		<p>Object to reference to "urban zoned localities" in Wooyung.</p>	<p>It is agreed that due to its 1(a) zoning Wooyung does not fall under the definition of an "urban zoned locality", however the DCP has been applied to development in Wooyung for some time. This inconsistency does not warrant further amendments at this time.</p>
		<p>Wooyung is defined as flood fringe, which is inconsistent with known flood data and should be corrected to reflect the Coastal Creeks Flood Study.</p>	<p>A review of the DCP will be undertaken in accordance with the final results of the Coastal Creeks Flood Study.</p>
<p>G. Martin, Tweed River Branch NSW Canegrowers Association</p>	<p>4/6/08</p>	<p>Limits on filling will not allow construction of mounds above 100 year ARI flood level for storage of machinery</p>	<p>Limits only apply to those areas subject to high flow. These will generally be the lower parts of the farm. Subject to local flood considerations, higher mounds can still be constructed in low flow areas.</p>

**Implementation**

The implementation of draft DCP Section A3 will require some significant allocation of resources in the short term. Such measures will include additional mapping of PMF levels and evacuation routes for the use of developers and assessing staff. It is important to provide this information on Council's website to limit the number of direct enquiries to Council staff.

The current Tweed Valley Floodplain Risk Management Study includes an update of flood mapping in the Tweed Valley, utilising new ground level data from the ALS project, an updated version of the TUFLOW modelling software, and a new hydrologic model. This will provide for more accurate mapping of high flow areas, PMF flood levels and inundation of evacuation routes. It is expected that this process will be completed within 3 months, at which point the mapping will be upgraded for customers.

Given the recent planning reforms, including adoption of DCP Section A1 - Residential and Tourist Development Code, the addition of savings provisions in the draft DCP was considered. However, the proposed development controls are already established as Council Policy, having been adopted on 18 December 2007 in the new Flood Risk Management Policy. This Policy was publicly exhibited and included a six (6) month savings clause for certain development classes to ease implementation at that time. This savings clause expired in June, and as such these provisions should already be being implemented by the Planning & Regulation Division. The addition of these controls to the DCP therefore does not impose new controls on the development industry, but provides Council with greater statutory authority to enforce them compared to their current policy status.

**DCP Amendment Summary**

During exhibition, Council officers recommended that the Planning Reforms Unit implement a system of tracking amendments of the various DCP sections by date, version number, or alternate means, for future reference. This is of particular relevance to development approvals which may take many years to approve and carry out, and to Court related approvals and appeals. On preliminary discussions, the Acting Coordinator Planning Reforms has agreed to implement such a system. The following table summarises the amendments to Section A3 for inclusion in the tracking system:

<b>Clause</b>	<b>Description</b>
A3.1.1	Expand aims to include implementation of Parts 1, 2 & 3 of Tweed Valley Floodplain Risk Management Study (TVRMS) and the Flood Risk Management Policy.
A3.1.5	Update definitions of terms related to new controls
A3.2.4	New Clause relating to development controls for high flow areas as per Pt 2 TVFRMS
A3.2.5	New Clause relating to development controls for emergency response provisions for habitable development.
A3.3.2 A3.4.2 A3.5.2 A3.7.2 A3.8.2 A3.10.2 A3.10.3	Reference Clause 3.2.4 for mapped high flow areas in each affected locality
A3.4.4	Delete duplication in clause
Table 5.1	Amend heading to read Fingal Head
Appendix 2	New appendix referencing plans, maps and studies

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

The amended DCP A3 will complement Council's Flood Risk Management Policy, while providing greater statutory authority for the new controls.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. Draft Section A3 of the Tweed Development Control Plan - Development of Flood Liable Land (August 2008) (DW1871772).
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**P6 [EO-PC] Exhibition of Draft S94 Plan No 5 – Local Open Space**

**ORIGIN:**

**Planning & Infrastructure**

**FILE NO: Contribution Plans**

**SUMMARY OF REPORT:**

Section 94 Contribution Plan No 5 – Local Open Space is due for review and has been amended in accordance with the Environmental Planning and Assessment (EP&A) Act and Regulations, including the amendments assented 18 June 2008 which are yet to be proclaimed. The purpose of the Plan is to enable the collection of contributions from developers towards the provision of Local Open Space in Tweed Shire, which meets the definition in the amended Act of “key community infrastructure”.

As well as taking account of the recently passed amendments to the EP&A Act, the amended plan includes

- Revision of occupancy rates;
- revised population projection to 2031;
- the means by which the plan rates will be adjusted in accordance with relevant indices; and
- updated works program.

In summary, the revision results in the following change to the contribution rates:

	Version 5		Draft Version 6	
	Per Person	Per Lot or Dwelling House	Per Person	Per Lot or Dwelling House
Structured Open Space	\$300	\$780	<b>\$251</b>	<b>\$653</b>
Casual Open Space	\$64.13	\$167	<b>\$219</b>	<b>\$570</b>

This reflects a rationalised distribution of the works program between works required for the embellishment of structured and casual open space.

**RECOMMENDATION:**

**That Draft Section 94 Contributions Plan No 5 – Local Open Space (Version 6) be placed on public exhibition for a period of 28 days as required by the Environmental Planning & Assessment Regulations to repeal and replace the existing Version.**

## REPORT:

### History

Section 94 Contribution Plan No 5 – Local Open Space has been in existence since July 1993. The purpose of the Plan is to enable the collection of contributions from developers towards the provision of Local Open Space in non designated urban release areas in Tweed Shire. The Plan has been regularly reviewed to take account of current costs and adjustments to population projection figures. The calculations in the current version of the plan are based on population growth figures to 2006. The current version, Amendment No 5, requires developers to pay \$780 per lot for structured open space and \$167 per lot for casual open space.

This review had commenced last year to amend the plan to incorporate population projections to 2031.

In November 2007, the NSW State Government requested all Councils in NSW to refrain from making or amending S94 Plans until proposed new legislation relating to the collection of infrastructure contributions had been finalised. This legislation was passed by both houses of Parliament and given assent on 18 June 2008. Advice received suggests that proclamation will be delayed until the necessary practice notes and templates are prepared. The indication is that this could be some months away.

As Contribution Plan No. 5 is out of date there is an urgent need to amend it as soon as possible and this cannot wait until the new legislation is proclaimed at some future undetermined date.

Nevertheless, Section 94 Contribution Plan No 5 – Local Open Space has now been revised to take account of the legislation as passed 18 June 2008. The purpose of the Plan is to enable the collection of contributions for the provision of suitably embellished Local Open Space in Tweed Shire, which is defined in amended EP&A Regulation 31A as passed as “**key community infrastructure**”:

- (a) *local roads,*
- (b) *local bus facilities,*
- (c) *local parks,*
- (d) *local sporting, recreational and cultural facilities and local social facilities (being community and child care centres and volunteer rescue and volunteer emergency services facilities)*
- (e) *local car parking facilities,*
- (f) *drainage and stormwater management works,*
- (g) *land for any community infrastructure (except land for riparian corridors),*
- (h) *district infrastructure of the kind referred to in paragraphs (a)–(e) but only if there is a direct connection with the development to which a contribution relates.*

Additionally, Part 116D of the amended EP&A Act as passed requires that Council take account of **5 key considerations** for development contributions, being:

- (a) *Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?*
- (b) *What will be the impact of the proposed development contribution on the affordability of the proposed development?*
- (c) *Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?*
- (d) *Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?*
- (e) *Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?*

These considerations are addressed in Part C of the revised Plan by demonstrating a clear nexus between the requirement for suitably embellished open space to meet the needs of the increased population as a result of new development, and the works program, cost estimate and contribution rates are considered reasonable and accurate.

### **Review of S94 Plan No 5 - Version 6 August 2008**

As well as taking account of the recently passed amendments to the EP&A Act summarised above and incorporating a revised population projection to 2031, the amended plan includes the following changes:

- The layout of the plan has been altered to coincide with the Department of Planning's current template for a Section 94 plan, including a detailed section on the means by which rates in the Plan will be regularly adjusted in accordance with relevant indices enabling the rates to be adjusted without the need for a full amendment or exhibition of the plan;
- Occupancy rates have been revised; and
- Calculations are based on an updated works program.

### **Calculations**

As detailed in the Draft Plan, Council has an adequate supply of land available for the future local open space needs of increased population arising from development in the area to which the Draft Plan relates. The Plan will collect contributions from developers towards the embellishment of existing land to meet the needs of population growth as a result of development in non designated urban release areas.

To enable the calculation of the contribution rate, the Draft Plan utilises population projections to 2031 excluding designated urban release areas as follows:

TABLE 3.2.1 TWEED SHIRE POPULATION PROJECTION							
Catchment	Actual 2006	2011	2016	2021	2026	2031	INCREASE
Non Urban Release Areas	63,941	68,925	76,282	83,107	90,725	97,550	33,609
Urban Release Areas	15,386	20,402	23,045	26,220	29,600	31,776	16,390
Total Shire	79,327	89,237	99,327	109,327	119,326	129,326	49,999

The works programs for embellishment to meet the needs of population growth to 2031 detailed in the Draft Plan results in the following costs:

Works Program (incl 10% admin)	Amendment 5	Version 6 (this version)
Structured Open Space	\$3,835,307	\$7,920,000
Casual Open Space	\$852,950	\$7,480,000

The contribution rates are calculated as follows:

$$\text{Contribution/person} = \frac{\text{C} + \text{I} + \text{A} + \text{K} + \text{E}}{\text{P}} + 10\%(\text{administration levy})$$

- Where:
- C = Cost of acquiring necessary land serving locality (where land not dedicated)
  - I = Improvement, embellishment costs
  - A = Project costs
  - P = Anticipated additional population in Shire to be serviced by acquired / embellished structured open space
  - K = Revaluation Cost (if relevant)  
Being (i) initial valuation  
(ii) annual revaluation
  - E = Establishment costs

CONTRIBUTION FOR PROVISION AND EMBELLISHMENT OF LOCAL STRUCTURED OPEN SPACE * Including 10% admin levy						
Additional Resident Population for the purposes of structured open space 2006 – 2031		Cost of Local Open Space Provision & Upgrading	Levy per Person)	Levy per Lot or Dwelling House	Levy per Medium Density Dwelling	Levy per Bed (tourist accomm.)
Population ex development areas	33,609					
Aged care beds	-2,055					
Net population increase	0	\$7,920,000*	\$251	\$653	\$427	N/A

NB: Aged care bed population included in population figures but not required to contribute to local structured open space.



CONTRIBUTION FOR PROVISION AND EMBELLISHMENT OF LOCAL CASUAL OPEN SPACE *including 10% admin levy						
Additional Resident & Tourist Population for the purposes of casual open space 2006 – 2031		Cost of Local Open Space Provision & Upgrading	Levy per Person	Levy per Lot or Dwelling House	Levy per Medium Density Dwelling	Levy per Bed (tourist accomm.)
Population ex development areas	33,609					
Tourist Beds	+500					
Net population increase	34,109	\$7,480,000*	\$219	\$570	\$373	\$219

NB: Tourist population not included in population figures but required to contribute to local casual open space.

This reflects an even distribution of the works program between works required for the embellishment of structured and casual open space.

The attached Draft Section 94 Contributions Plan No 5 – Local Open Space (Version 6) is therefore proposed to be placed on public exhibition for a period of 28 days in accordance with EP&A Regulations 26 & 28.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The adoption of Draft *Section 94 Plan No 5 – Local Open Space Version 6* will enable Council to embellish land for the purposes of local open space to meet the demand to service the increase in population as a result of future development in non designated urban release areas up to 2031.

If the Draft Plan is not adopted, these works would require financing from the general fund and from existing ratepayers who are not contributing to the demand for these additional open space areas.

The draft plan complies with the requirements of the recently assented changes to the Environment & Planning Act that have not yet been proclaimed.

## **POLICY IMPLICATIONS:**

Contributions are required so that Council is able to embellish existing land to meet the adopted standards for casual and structured open space in Council's adopted Open Space Infrastructure Policy 2002 for increases in population as a result of development. The Policy further recommends adoption of the S94 Plan for Local Open Space.

## **UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Draft Section 94 Plan No 5 – Local Open Space (Version 6) (DW 1871437)
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