

Council Reference: DA09/0466
Your Reference: MP08/0234

22 October 2009

NSW Department of Planning
Strategic Assessment
GPO Box 39
SYDNEY NSW 2001

Attention: Michael File

Dear Sir

RISE” Concept Plan and State Significant Site Application comprising residential, retirement living, retail, commercial, school and open space precincts (MP08_0234) at Lot 1 DP 595529, Lot 1 DP 1033810, Lot 1 DP 1033807, Lot 4 DP 822786, Lot 31 DP 850230, Lot 2 DP 86748 and Lot 33 DP 1085109 Marana Street; Lot 31 DP 850230, Conmurra Avenue; Lot 2 DP 555026 147 McAllisters Road, BILAMBIL HEIGHTS.

I refer to your request for Council’s comments in relation to the Bilambil Heights “Rise” State Significant Site Application and associated Concept Plan.

The application has been reviewed by various Council Officer’s and based on this review the following comments are made.

Strategic

The subject site was identified in general terms in the *Tweed Residential Development Strategy* 1991 as an ‘existing’ urban area, and later in the *Far North Coast Regional Strategy* (2006) as a “proposed future urban release” area. The *Tweed Urban and Employment Land Release Strategy* 2009 (adopted 17 March 2009) also makes reference to the Bilambil Heights release area, which is seen as short to medium term proposal that is anticipated at providing for a population of about 7500 people.

The longstanding strategic land-use policy position has foreshadowed the urban development of the subject land, which would comprise a choice of housing types, local area catchment shopping, retail and commercial needs, community facilities and infrastructure.

In general terms the proposed development is consistent with the long-term strategic land-use intention for the area, as provided for in the State and local strategic planning policies referred to above.

Strategic Context / Relatedness

The subject site is part of much larger identified Bilambil Heights release area and is adjacent to the neighbouring Cobaki Lakes release area. The subject proposal must take into consideration at the very least its role within the broader Bilambil Heights release area and where practical in relation to Cobaki Lakes. These areas are to varying degrees linked and the development of the remainder of the Bilambil Heights release area seems to be

contingent upon the development of the neighbouring Cobaki Lakes, particularly as it relates to traffic/road design.

It is essential that the release areas ultimately function in unison and that to do so essential services, such as, retail shopping, are neither under or over provided. Consequently, a retail analysis, grounded on Council's adopted retail policy of 2005, will be required to demonstrate and justify both the provision and location of the required level of retail shopping needs.

Tweed 2000+ Strategic Plan and Tweed 4/24

The Tweed 2000+ is one of the overarching strategic vision documents for the Tweed and it is called up by the Tweed LEP 2000. The other Plan is the Tweed 4/24 Strategic Plan, also referred to as 'Tweed Futures.' This later Plan updates the earlier 2000+ Plan and represents a 'whole of Shire' policy approach to managing the future growth of the Tweed.

The 2000+, s 120, on page 34, sets out the individual release area requirements and includes the release area of Bilambil Heights. There are several key elements, the most notable being:

- commitment by the landowners for funding of Scenic Drive Diversion
- water and sewer provision so that there is no unnecessary duplication of mains and pump stations
- defined areas of dual occupancy and medium density development
- *houses not permitted on prominent ridgelines.*

In addition, 2000+ provides a section (125 on page 35) on 'existing urban areas.' This section identifies that the Tweed's urban environment requires an improvement in design, diversity and efficiency, capable of responding the changing demographic needs of the community. It seeks to achieve this by encouraging mixed-use neighbourhood centres, improving residential amenity, ensuring that housing design responds to the site, e.g. split level rather than excavation, diversity in construction material and so on.

The 4/24 Plan identifies that the earlier 2000+ Plan was heavily concerned with managing urban expansion and that while this is still required the attention to producing socially and sustainable responsible developments is paramount. It is important to note however the key elements of the community feedback provided on page 4, in particular as it relates to:

- maintaining quality of life and protecting the environment and natural beauty of the Tweed,
- planning for a balance between population growth, urban development and the environment,
- retaining prime agricultural land, farm viability, and managing rural subdivision and associated landscape impacts.

It goes further on page 7 to identify further community values, including:

- protection of the Tweed's natural beauty, scenic landscapes and environmental quality,
- less emphasis on urban expansion and avoidance of over-development,

- a quite and peaceful place to live, with a diversity of lifestyle options.

Under Section 7 – Managing Urban Development, “Strategic Directions,” the Plan acknowledges the need to diversify new Greenfield urban developments away from the traditional low density solely residential based to more sustainable mixed-use neighbourhoods which integrate land-use and transport planning, and active social infrastructure, such as, walkway and cycleway, public transport, community facilities and the like.

In summary, the proposed development attains many of the strategic imperatives of the 2000+ and 4/24 strategic plans, however, its most prominent failure (through the requested height variation to 8 stories) is achieved by not responding to the desired vision and community values in relation to protecting the scenic and landscape value and amenity of the Tweed. These policies seem to suggest that the prominent ridgelines should not be built on, this may pose some difficulty in relation to water servicing and may be too restrictive if applied literally to low rise, dispersed, building types, however, it serves to highlight what is arguably the single most design weakness with the proposed development, that, some of the biggest and more imposing developments are proposed in the most prominent locations.

It seems that the development generally achieves the mixed-use neighbourhood centres concept and the range of housing and business development required of any sustainable village, however, the height of buildings on the prominent ridgelines should be kept to a minimum.

Far North Coast Regional Strategy (FNCRS)

Town and Village Growth Boundaries

The subject site is identified within an identified town and village growth boundary under the FNCRS, as an existing urban footprint. The land is already zoned for urban purposes. However, the strategy clearly articulates and canvasses that not all land within a town and village growth boundary can be developed as this will depend on detailed investigation of the sites suitability.

The Strategy seeks to ensure that land identified for urban development is efficiently used without sacrificing the identify of the area. This may occur as a result of infill development and growth of existing town and villages, or, as is the case with Bilambil Heights it may occur as a result of a new village or town. In concert with the Department’s Settlement Planning Guidelines 2007, the strategy reinforces the need to ensure that any new development strengthens the hierarchy of the settlement or in the case of Greenfield development ensures that an appropriate hierarchy is established, that housing choice is diverse, dependence of car travel and demand is reduced and there is range of mixed-use residential and employment development.

The proposed development generally achieves the desired outcomes under the strategy in its provision and diversity of housing and commercial/employment opportunities, **relative to the constraints and limitations of the site**, which is comprised of steep and hilly land.

Settlement Character and Design

The strategy identifies that as the region continues to grow the character of the area will evolve to reflect the demand changes brought on by the need for employment, better services, diversification in housing and business, and in the provision of more sustainable and liveable settlements.

However, the strategy recognises that this evolution should not be at the expense of the underlying coastal values of the Region, and should help to define and enhance those values by offering greater opportunities to preserve and *protect important environmental and scenic landscapes*.

The proposed development has the ability to achieve many of the positive outcomes sought by the strategy, in particular in the delivery of a mixed-use and diversified housing and business development, however, it fails to address the impact on the natural environment / landscape that is likely to result from the siting of large buildings on prominent ridgeline locations.

The strategy recognises the need for new development to take account of the existing natural environment and character and although not specifically excluding consideration of the fundamental principles of ancient town and village concepts, as found elsewhere, the paramount and primary consideration should be the local context. In this regard the proposed development has not taken this principle of the Strategy into account and this appears to lead to an inconsistency, one that could in all probability only be overcome through proper community consultation about the importance and recognition of the existing landscape versus an alternative European styled landscape.

Urban Design / Natural Amenity

This issue ties in with the discussion above on the Tweed's strategic policies, but is nevertheless worthy of further comment.

The urban design philosophy of the proposal marks a significant departure from that pursued in the Tweed to-date, and is more characteristic of the hilltop style developments emerging in neighbouring Queensland. This is compounded by the variations sought (up to 8-storey) to the current 3-storey height restriction under Tweed LEP 2000 and will lead to a visual character and dominance of the development that is unprecedented in the Tweed. The development, if approved, would mark a significant turning point in the management of the Tweeds natural environment (character), particularly in terms of visual amenity.

European village/towns concepts of hill top (defendable) developments have been used as the model for the hill top village concept in Bilambil Heights. It is highly debatable and questionable as to whether such a model let alone a justification premised on this European concept has any place or relevance in the Tweed. The concept of sustainable concept village, which these old villages and towns provide appears to be the more relevant concept as it accords with the strategic policy and approach adopted by Tweed Council.

It does not appear that the Tweed Scenic Evaluation Report 2005 was considered in the design and evaluation of the proposal's impact on the natural environment.

Positive Strategic Elements

The proposed development has the potential to add to the choice of housing available in the Tweed and to provide for a greater range of affordability. It is not likely to provide for affordable housing per se. There may be greater opportunity however for affordable rental housing under State Environmental Planning Policy (Affordable Rental Housing) 2009, if this were to be taken up by the proponent.

Strategic Conclusion

In concluding it should be noted that the subject site has been identified as an urban release area for many years, despite the lands physical constraints. Nevertheless, the longstanding urban zoning and constraints should not be seen as of right to providing a development concept that does not accord with current State and local strategic policy.

It may be generally accepted that the proposed development does achieve many of the broader settlement imperatives provided in the State and local policy referred to above, in particular in the provision of diversification of housing mix, provision of commercial and retail opportunities and in the coordinated approach and provision to water, sewer and road infrastructure, however, one of the fundamental considerations for any new development, regardless of scale or location, is the local context.

In this instance a consideration of the natural environment and landscape, having regard to the site's elevation and visual exposure to/from great distances, must be a primary consideration. All of the strategic policies referred to above make reference and highlight the importance of respecting and retaining the scenic landscape, both from a regional perspective but also from a local community value perspective.

The proposed development seems to propose a 'new' concept for the Tweed, based on urban design and architecture concepts from elsewhere, and although a valid exercise in its own right it is one that has led the proposal to be inconsistent with the State Government's Far North Coast Regional Strategy and Council's overarching strategic planning policies, Tweed 2000+ Strategic Plan and Tweed 4/24 Strategic Plan, and ultimately the Tweed's communities values as expressed through those adopted policies.

To overcome or create a change in policy as to what level of or style of landscape is appropriate for the Tweed there would need to be proper community consultation that focuses on the importance and recognition of the existing landscape versus an alternative styled landscape, whether that be founded on hilltop development principles or otherwise.

The height of buildings on the prominent ridgelines should be kept to a minimum.

Bilambil Heights Release Area –The Local Area Structure Plan

In 2006 the applicant approached Council regarding the timing and way forward for the Bilambil Heights Release Area. The applicant was advised that Council did not have the resources to advance the strategic planning options for the Bilambil Heights Release Area.

The applicant in consultation with Council Officers accordingly volunteered to undertake a Local Area Structure Plan that reviewed the constraints of the whole release area and set

parameters for future growth within the release area. The covering letter associated with the Local Area Structure Plan stated:

“We enclose herewith three (3) copies of the Draft Bilambil Heights Local Area Structure Plan which has been prepared in accordance with the agreed scope of works and following consultations with Council officers in relation to earlier drafts.

The Draft Structure Plan is intended for use by Council and the Department of Planning only at this stage and accordingly Council is requested to treat the document as “Confidential”.

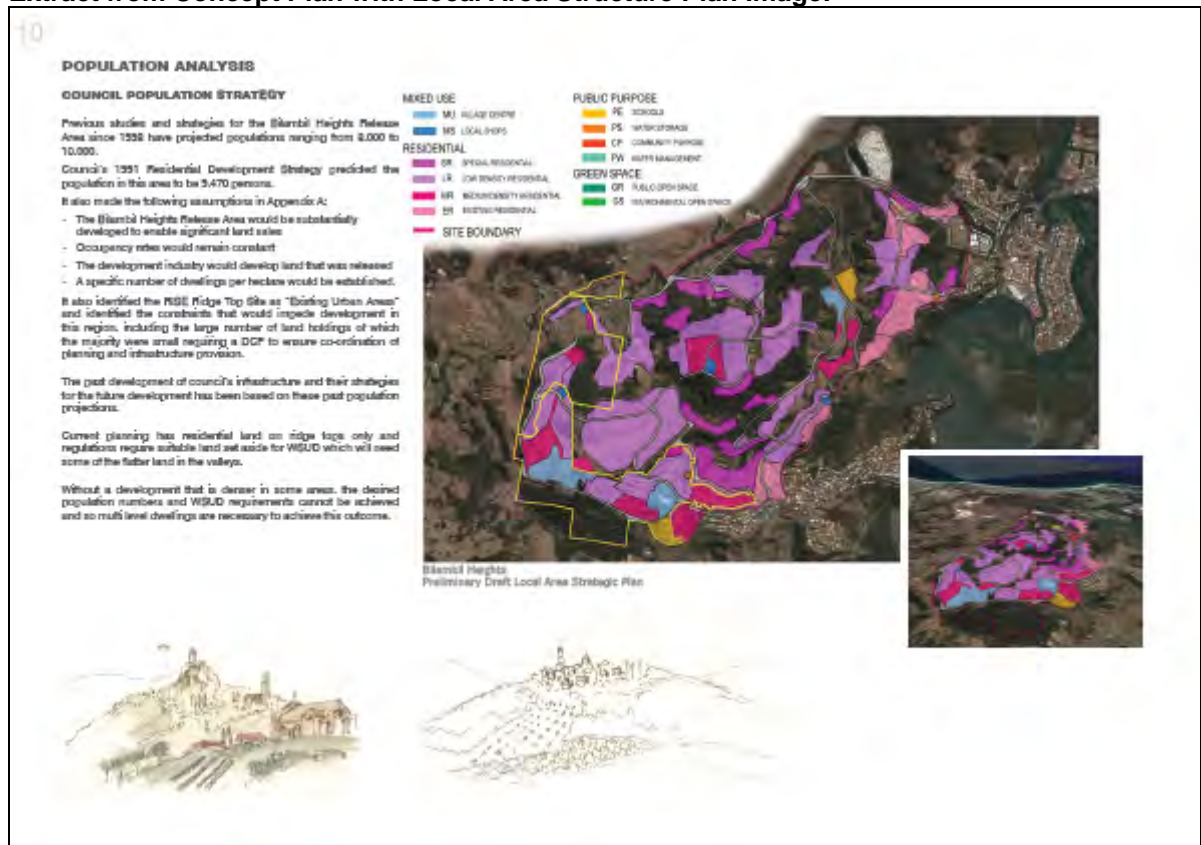
Until negotiations are concluded with Council and the Department of Planning in relation to the Pacific Highlands State Significant Site Submission and Concept plan, copyright in the Draft Bilambil Heights Local Area Structure Plan will remain with Terranora Group Management Pty Ltd.

In accordance with previous agreements, Council is also requested to confirm that credits in respect of future Section 94 contributions will apply to the Pacific Highlands development for the costs incurred by Terranora Group Management Pty Ltd in preparing the Draft Bilambil Heights Local Structure Plan.

It would be appreciated if Council could review the document and advise the Department of Planning that Council has no objection to the declaration of the Pacific Highlands site as a State Significant Site as proposed in our Submission to the Department dated August 2006.

Please do not hesitate to contact Darryl Anderson if you require any further information in relation to this matter.”

Extract from Concept Plan with Local Area Structure Plan Image:



The Local Area Structure Plan was never formally reviewed or reported to Council for any resolution. However, the applicant has indicated that verbal feedback was given by Council staff regarding the comprehensive nature of the Plan.

It is now understood that the Department of Planning has determined that the subject site (Rise) is large enough in its own right to be regarded as a State Significant Site independently of any other adjoining land that forms part of the Bilambil Heights Urban Land Release Area.

Whilst this might be true should the Department approve this concept plan it will have ramifications for Council's future planning of the remainder of the release area.

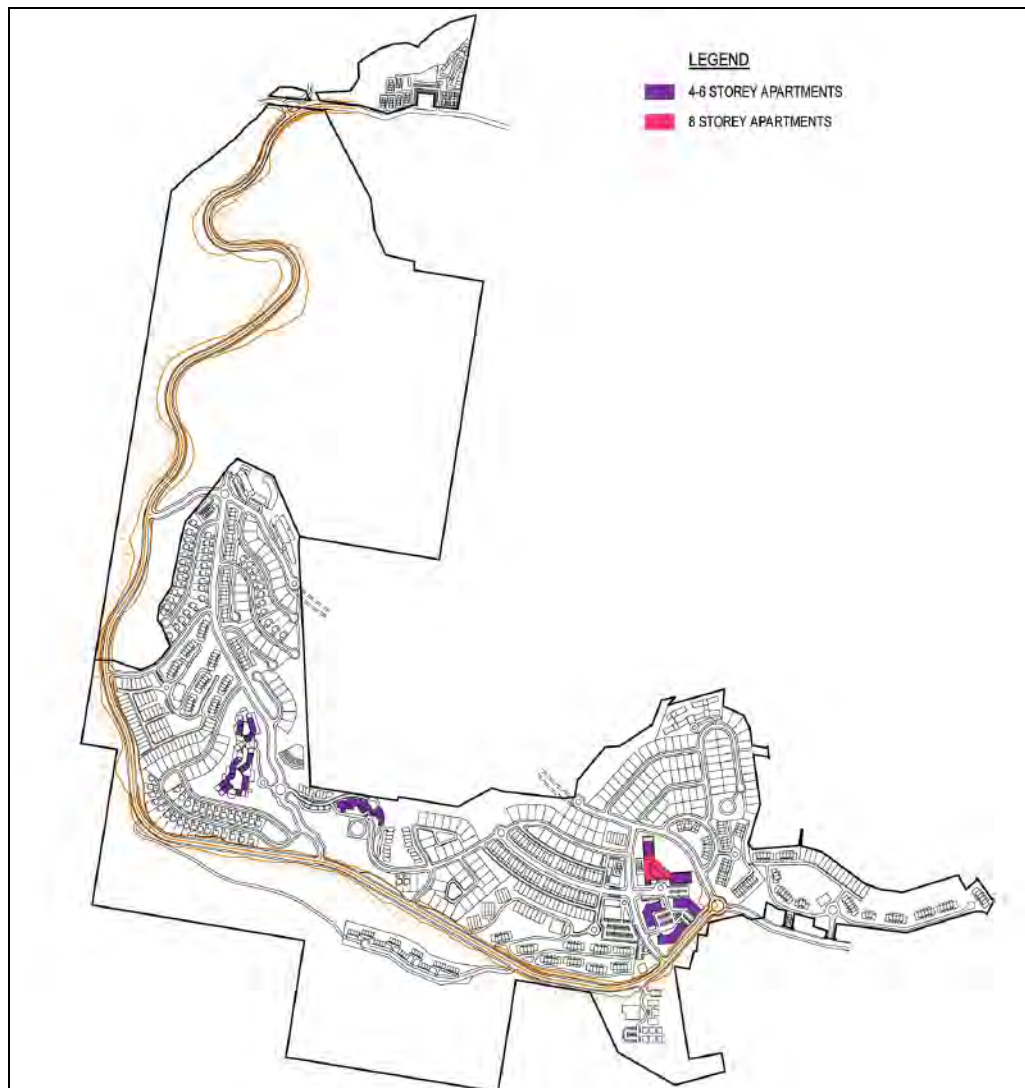
Council will need to re-consider the Strategic Planning options associated with Bilambil Heights and review whether the Local Area Structure Plan can or should be used as a basis for any future planning. Subsequently it is recommended:

That Council request that a report is brought forward outlining the options available to advance the strategic planning for Bilambil Heights Release Areas (including options in regards to the status of the Local Area Structure Plan prepared on behalf of the "Rise" development)

This submission also requests the Department of Planning to continue to liaise with Council on this project given the wider strategic implications associated with this development.

Height & View Analysis

The applicant has requested a variation to the statutory height limit of three stories in certain parts of the site. The applicant proposes a height limit of up to 8 stories as shown on the following plan:



The applicant has provided the following images and justifications for the requested height variation:

The visual amenity of the existing site and of the proposed development were assessed by observation and analysis when seen from frequently and, in some cases, less frequently accessed public locations, such as roads and streets from which the site is currently visible.

Although not as important as views from public spaces, similar views would also be obtainable from private properties near to the selected streets from which the observations were made.

There are few locations from which the full extent of the site forms an important element in the view shed and even when it does, other existing urban developments are either more visually dominant or are more apparent.

Viewed from locations where the site is quite visible, the parts of the site which are quite obvious will remain as open space and the parts of the site which will be subject to urban development will be visually subservient or screened from those viewpoints.

From the locations where proposed structures which exceed three storeys will be visible, they will not negatively impact the visual landscape due to building heights being restricted to mature native tree height, neutral colour selection for building finishes and distance from Viewpoints.

In summary, the findings of this Assessment indicate that, with regard to visual impact, this project should be allowed to be approved for development.

The proposed variation to height is a major policy decision that should be made at a more strategic level. To increase heights and density is a public policy decision that should take into account the rest of the Bilambil Heights Release Area, Cobaki Lakes and even Tweed Heads South. If it were to be determined that additional density was needed then an analysis should occur to determine the best place for that density and thus height.

It is now understood that the Department of Planning has determined that the subject site (Rise) is large enough in its own right to be regarded as a State Significant Site independently of any other adjoining land that forms part of the Bilambil Heights Urban Land Release Area. In Council's opinion it would be considered flawed if the height limits on the subject site were amended independent of any strategic analysis

The proposed increase in heights on a prominent ridgeline is contrary to all strategic direction that Tweed Shire Council has previously undertaken. It is acknowledged that the area of the proposed variations is small given the overall site area however the additional height is also proposed within the most prominent section of the site, and will be visible from a distance.

The applicants urban design principals for increased height (sustainability and creating a sense of place) have some merit, however, the real question is whether these principals fit within the context of this site.

The normal process for Council to consider a variation such as this is extensive public consultation. Council has not had the benefit of public consultation and is not the consent authority for this application.

The application has not satisfactorily demonstrated the public benefit associated with the proposed increase in height and accordingly it is recommended to the Department of Planning to retain the existing height limits in place for the site.

Concern is also expressed for Precinct B where larger building footprints (retirement units) are proposed to three stories in height. Whilst this area is subject to a three storey height limit the majority of homes in this location are single or double storey. Future applications in

this area will need to demonstrate retained amenity and opportunities for view sharing for the existing residential properties.

Ecology

The site is of very high conservation value

Background and value of site

The site is very highly constrained by a rainforest remnant (and outliers) of state significance. The site contains remnant rainforest of some 68 hectares known as the 'type' remnant after which the Endangered Ecological Community (EEC) *Lowland Rainforest in the NSW North Coast and Sydney Basin bioregions* was described.

Lowland Rainforest, when optimally developed, has the structural and floristic form of subtropical rainforest (sensu Floyd 1990a, b), but may be interspersed with stands of dry rainforest as moisture status declines or topographic exposure increases. Since European settlement Lowland Rainforest has undergone a large reduction in geographic distribution (particularly its area of occupancy) due to clearing (Floyd 1990a, b). For example, Floyd (1990a) estimated the Big Scrub lowland rainforest near Lismore, originally estimated to cover 75 000 ha, had been reduced to only 300 ha (0.07%) since European settlement.

Thus the site contains at least one EEC as well as 16 plant species listed as Endangered or Vulnerable on the Schedules of the Threatened Species Conservation Act 1995. Eight out of the recorded 16 different plant species on the site are also listed under the Federal Environmental Protection and Biodiversity Conservation Act 1999.

I provide below an extract of a report describing the ecological importance of the site.

"Importance of the site

The site is at the intersection of a regional and sub-regional fauna corridor (as mapped by DEC). The Tweed Vegetation Management Strategy (2004) maps the southern portion of the site as Subtropical Rainforest/ Warm Temperate Rainforest on Bedrock, with a very high ecological status and a high ecological sensitivity. The important southern remnant is largely covered by Council's Tree Preservation Orders and zoned as Environmental Protection (Scenic Escarpment). The entire southern remnant has been included in draft Tweed LEP 2010 to be rezoned to E2 Environmental Conservation.

*Since 1996, the site has become well known to many north coast botanists due to the large concentration of threatened plant species within a relatively small area. The site has been used as a study area for recovery planning of the Small-leaved Tamarind (*Diploglottis campbellii*) and contains the only record for the Tweed local government area of Axebreaker (*Coatsea paniculata*) (although a second record on the adjacent property has recently been found (2009).*

The presence and exact locations of threatened plants have been well known to local residents/environmental groups and DECC since 1996. The site is of extreme importance to biodiversity, with Parks and Wildlife Division Area Manager John Hunter

describing the area as "arguably some of the most significant remnant rainforest areas in the State and probably contains more specimens of threatened rainforest plant species than any areas of comparable size in the State".

James Warren and Associates described the conservation value of the southern remnant (within the 2006 State Significant Site Submission) as follows: "This community is considered to have an extremely high conservation value due to the threatened flora present and the relatively undisturbed nature of the vegetation. Ten (10) mature Small leaved Tamarind occur within this community and were fruiting heavily at the time of the February 2006 visit, and are likely to constitute a significant local population of the species. Also of significance is the occurrence of numerous Southern Ochrosia and the record of Axe breaker". Elsewhere the report states "The record for Axe breaker (a mature tree with up to fifty associated saplings) is particularly significant, as it constitutes the only record for the entire Tweed LGA (NPWS Wildlife Atlas 2006)".

In fact the conservation significance of the site was used in part to justify the State Significant site submission for the Rise project as follows:

"The site is significant to the State for environmental conservation or natural resource reasons. In summary, the site contains 7 vegetation communities including one endangered ecological community (lowland rainforest). In total, 391 flora species have been recorded at the site including 7 ROTAP (Rare or Threatened Australian Plants) species together with 17 vulnerable or endangered species.

A total of 8 threatened fauna species have been recorded from the site and additionally 5 migratory species listed in the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 were also recorded. A further 15 threatened fauna species were considered to be likely or possible occurrences on the subject site due to the presence of suitable habitat. Flora, fauna and EEC recorded on the site are listed in Attachment 1.

Having regard to the above, the site is clearly of considerable environmental conservation significance given the range and number of threatened species occurring on the site. Those species are proposed to be substantially protected in appropriate environmental conservation zones but nevertheless given the significance to the state of the site because of its large number of threatened and endangered species, it is submitted that the RISE project meets this criteria for a State Significant Site."

During site survey undertaken by the Consultant ecologist, it was found that densities of threatened flora species in some areas were such that individual records could not be made and a number of species were required to be logged within each weigh point having a 10m radius.

The site is subject to current Land and Environment Court proceedings

The site is subject to a Land and Environment Court case for which a judgement is yet to be handed down (*DECC vs Rawson*) relating to the death of numerous threatened rainforest plant species. The defendant contractor has pleaded guilty to the removal of threatened flora species numbering in the hundreds while DECCW have estimated damage to more than 1,200 plants (Beaumont (DECCW) pers. comm., 2009).

The Department of Planning has determined that the Concept Plan may be considered despite the absence of judgement in this case. However, because illegal removal has been established through a guilty plea and potential may exist for a restoration order over the site under the Native Vegetation Act, it is considered that approval of a Concept Plan prior to issue of a judgement in this matter may be pre-emptive.

The Department of Planning should liaise directly with Department of Environment Climate Change and Water in this regard.

Council staff have been advised that there are still remaining threatened species on the property and a proportion of the previously damaged plants are re-shooting, DECCW is of the opinion that all of the areas where threatened species were damaged are still considered to be threatened species habitat for the purposes of determining the impact and significance of the proposed development (Waern 2009)

Thus it is considered that a reasonable approach to assessment of the site's ecological value in the interim would be to:

- Consider the site's value and extent prior to the damage and base any Assessment of Significance of impact arising from the proposed development on the former extent and distribution of threatened species and ecological communities, or
- Consider the extent of impacts proposed by the development and combine it with the further proposed vegetation removal associated with the proposed development.

Cumulative impacts have not been adequately considered

Unfortunately the ecological consultant does not appear to have taken either above approach and thus it must be assumed that total impacts are underestimated. Further, it appears that the 7 part tests have given little consideration to construction and occupation impacts on threatened species and ecological communities, such as the potential introduction or exacerbation of 'key threatening' and related processes including potential road strike, weed invasions, facilitation of predation routes by feral pests or even domestic pets.

The development footprint impacts the site's ecological constraints

Whether or not previous impacts are considered, the development footprint as it exists is considered to pose a significant impact to threatened species and ecological communities. If this development were to be assessed under the Biobanking system, being the only offsets policy in NSW with significant scientific rationale underpinning it, the entire area of Lowland Rainforest EEC would be 'red-flagged' and thus avoidance would be the only choice. This must then necessitate reconsideration of the development and its impacts. 'Clearing of native vegetation' is listed as a Key Threatening Process under the Threatened Species Conservation Act and the subject site if approved will be subject to a second round of impacts.

Current location of spine road is not supported on ecological grounds

In its current location, the proposed Spine Road impacts on numerous threatened species and a section of EEC. Sufficient justification for the location of the Spine Road on

necessary engineering grounds does not appear to have been given, nor is it apparent whether assessment of alternative options has been undertaken.

In its proposed location, the western most portion of the spine road appears to be outside of the Far North Coast Regional Strategy area (see Figure 1). The proposed fire egress road to the west of Precinct J is similarly outside any area intended within the strategy for development. Thus it could be argued that the biodiversity value of the site is of sufficient value to limit the extent of the Far North Coast Regional Strategy urban footprint.

Precinct J is not supported on ecological grounds

Precinct J is an isolated development proposed amongst the larger remnant of Lowland Rainforest, an Endangered Ecological Community (EEC), although this component of the site is partly cleared. Its shape is generally linear and its location requires asset protection zones on steep slopes (over 18 degrees) as well as an additional western egress road. Consideration of the impact of this egress road shows that it runs through the most intact part of remnant rainforest vegetation, cutting a 20m swath (at minimum, due to grades within the area) and bisecting the remnant and opening it up to further degradation. When degradation arising from edge effects along with impacts from occupation, visitation and use of the site from a small town population are included, the continued viability of the entire remnant is compromised and gradual decline is the most likely outcome.

A reduced impact arising from Precinct J would be gained were this road able to be removed, but the preferred option to ensure continued long-term viability of this remnant is to remove proposed Precinct J from the remnant area.

Principles of landscape ecology dictate that long edge to area unit ratios allow the most significant edge effects to operate when compared to round or square footprints, and larger remnants are less prone to edge effects than smaller fragmented remnants.

- **Direct** development impacts relating to Precinct J include earthworks, noise, clearing and maintenance of asset protection zones (here on land over 18 degrees slope), formal and informal pathways through the remnant, increased hardstand areas and resultant impermeability and stormwater management impacts, provision of sewerage infrastructure would cut another track through, provision of access road, egress road impacts through previously undisturbed remnant area, fragmenting it into two sections and providing barriers to movement for cryptic species in particular.
- **Indirect** development impacts arising from Precinct J include no apparent control on dogs and cats thus predation and potential disease, lighting, noise, hardstand area, potential introduction of weeds, potential increased fire hazard.

From an ecological point of view only, higher density elsewhere on the site would be supported if the southern remnant were to remain largely intact and high occupational impacts avoided. Indeed, this is considered the only acceptable outcome to offset impacts on other parts of the site.

The methodology is flawed in part

- Desktop and survey data is dated (2006, some 2007) and incorrect in parts.
- Black Flying Fox is no longer listed on the Schedules of the Threatened Species Conservation Act, wildlife atlas data incorrect, misses a number of species recorded on site.
- Maps are too small (scale is too large) and difficult to read or interpret with any accuracy. No locations have been pinpointed in relation to species of significance – Axebreaker, Southern Ochrosia, - this issue has been resolved through provision of additional information and a site visit with proponents.
- Fauna survey has been undertaken only outside of the impact footprint thus a realistic analysis cannot be provided.
- Rainforest communities mapped in 2009 differently to mapping undertaken for the 2006 state significant site application. Now Precinct J area shown as degraded land where previously mapped as forested, area near water tower shown as Brushbox woodland where previously mapped as Closed Forest (rainforest). This has the potential to reduce site values (not EEC) and could result in a development benefit.
- Previous loss of threatened species from the site has been acknowledged, however, the 7-part test assessment is undertaken at least in part on previous 2006 data, thus discussing removal or retention of threatened species, at least some of which may have already been removed.
- Camphor Laurel dominance is used as a reason **not** to call the south-east portion an EEC yet no methodology or determination of percentage of natives to weeds is given to justify this. The Scientific Committee determination recognises that most remaining remnants will be weedy. This affects assessment of significance.
- No fauna survey was undertaken in this section of the site and flora survey not stated in this section, potential for other threatened species to be present.
- Assessments of significance differ in figures and percentages of the site proposed to be cleared – affects outcomes
- DECC asked for “no net loss of native vegetation”, yet a loss of 3.3ha (4.1ha including regrowth) is proposed in Stage 1 alone.
- Consultant obligations under scientific licence for recording threatened species do not appear to have been strictly followed as not all threatened species recorded are contained within current NPWS wildlife atlas data.

Protective Zoning is reduced

- Loss of Environmental protection zoned area results when compared to both current LEP and LEP 2010 (it is noted that there can be no commitment to E2 zoning in lower portion of site as this is proposed Stage 2, yet elsewhere restoration has been proposed in this area as an apparent offset).

Landscape concept plan

- Could be considered misleading as it shows the entire Stage 2 area as bushland when this is clearly not the intent contained within other sections.

Restoration proposal requires additional consideration

- Most of the restoration proposed (or already commenced) is contained within areas outside of the current approval area and at a much lower elevation, indeed in some sections reference is made to creation/planting/restoration of Lowland Rainforest on Floodplain (in the north of the site). Whilst this is also an important EEC poorly conserved, it is not the same EEC and thus cannot strictly be applied as an offset on a “like for like” basis.
- States that baseline survey and assessment of rehabilitation potential has been undertaken for some 44 rehabilitation areas on the site, yet no information relating to that baseline analysis is included, not even a table outlining which of the main restoration strategies will be employed in each Restoration Area. It is important that restoration is undertaken sensitivity and with forethought in this sensitive area.
- Commits to 5 (or 10 in another section) years restoration (though each individual restoration area seems to be scheduled for treatment for only 2 to 3 years) and protection as community title.
- Restoration work must be considered as an ongoing long-term proposal (requires ongoing management in perpetuity and this should be reflected in any Community Management Statement). Detailed site restoration plans are required for each management unit. Collection of information on weed status is stated, This should apply to Community 1.
- Discusses the collection and propagation and planting of threatened flora species that has already occurred – no details of where collected, where planted or the reasoning behind placement or numbers. Such action raises potential genetic issues.
- At least one area planted contains species not relevant to the site such as Silky Oak and Queensland Maple. Restoration is supported and considered necessary in order that impacts may be suitably offset, however, any such work should be undertaken in conjunction with DECCW and/or Council due to the high sensitivity of the site, the high number of threatened species and the high level of endemism.
- The 50m buffer proposed to the sportsfield on Cobaki Creek needs to be restored differently to other areas of the site as this is an area dominated by Forest Red Gum.

Barriers to fauna movement across the site

Apart from highly mobile species such as birds and bats, the developed site is likely to pose significant fauna movement barriers across the site. Retention and protection of corridors and provision of dedicated fauna crossing structures requires consideration when designing any Spine Road for the site.

Ecology Conclusion and Recommendations

The development as proposed is almost certain to result in a significant impact on threatened species and ecological communities due to the fact that there is significant habitat and EEC which is at risk of loss due to the current location of the spine road and associated components of the development. Any further loss of this highly significant vegetation community must be considered in the light of previous damage and degradation to rainforest species and communities as well as the likely construction and operational impacts arising from the development.

It is considered that the options available to avoid a significant impact are to:

- Relocate the spine road and associated development away from the rainforest vegetation and undertake restoration of these section of the site, or
- Remove Precinct J, restore the habitat values within this proposed precinct area and protect the then reasonably large and contiguous area of rainforest remnant in perpetuity as the only available suitable area to offset impacts arising from other parts of the site such as the Spine Road.

In the absence of either option, the only conclusion that can be drawn is that the site is not suitable for the development and cannot be supported.

The Statement of Commitments should reflect a commitment to remove Precinct J from the proposal and rehabilitate and protect the entire southern remnant.

Below are diagrams to support these comments:

Figure 1 – The Far North Coast Regional Strategy (boundary):



Figure 2 - Approximate outline of FNC Regional Strategy area relating to the subject site:

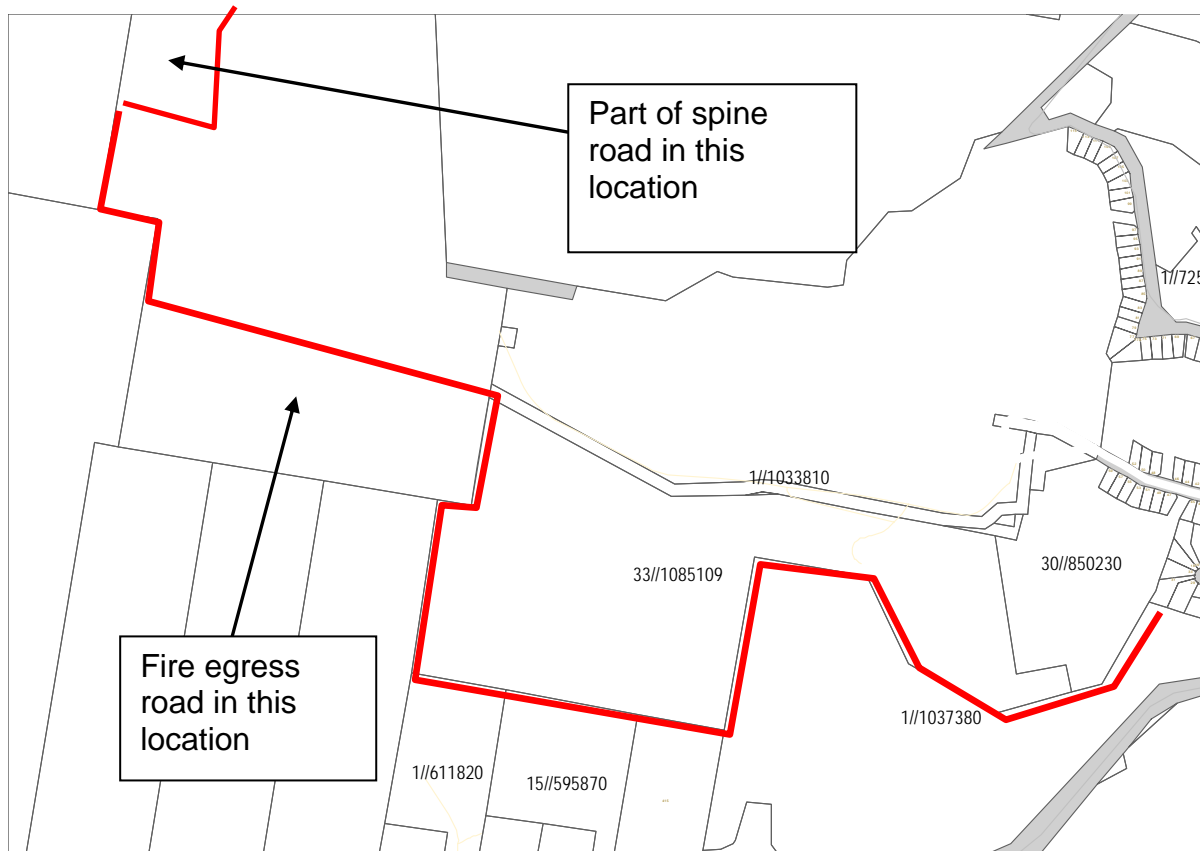


Table 1: Overview of impacts arising from the development

| Category | No. species/ communities | No. stems or habitat area proposed to be lost |
|--|-------------------------------------|--|
| Flora species total | 391 | |
| <i>Threatened flora species recorded</i> | 17 | |
| <i>ROTAP species</i> | 7 | |
| <i>Threatened fauna species recorded</i> | 8 | |
| <i>Threatened fauna likely (suitable habitat)</i> | 15 | |
| <i>Migratory species</i> | 5 | |
| <i>TSC Act listed species</i> | 25 - 40 | |
| <i>EEC</i> | 1 | Net loss of EEC 3.3ha (4.21ha) despite restoration* |
| <i>EPBC Act listed</i> | 8 + 5 = 13 | |
| <i>Threatened flora species damaged as attested by DECCW</i> | | 1, 283 stems purported by DECCW |

*Figures vary throughout various report components.

Application states a long-term gain of 11.34ha (restore degraded area)

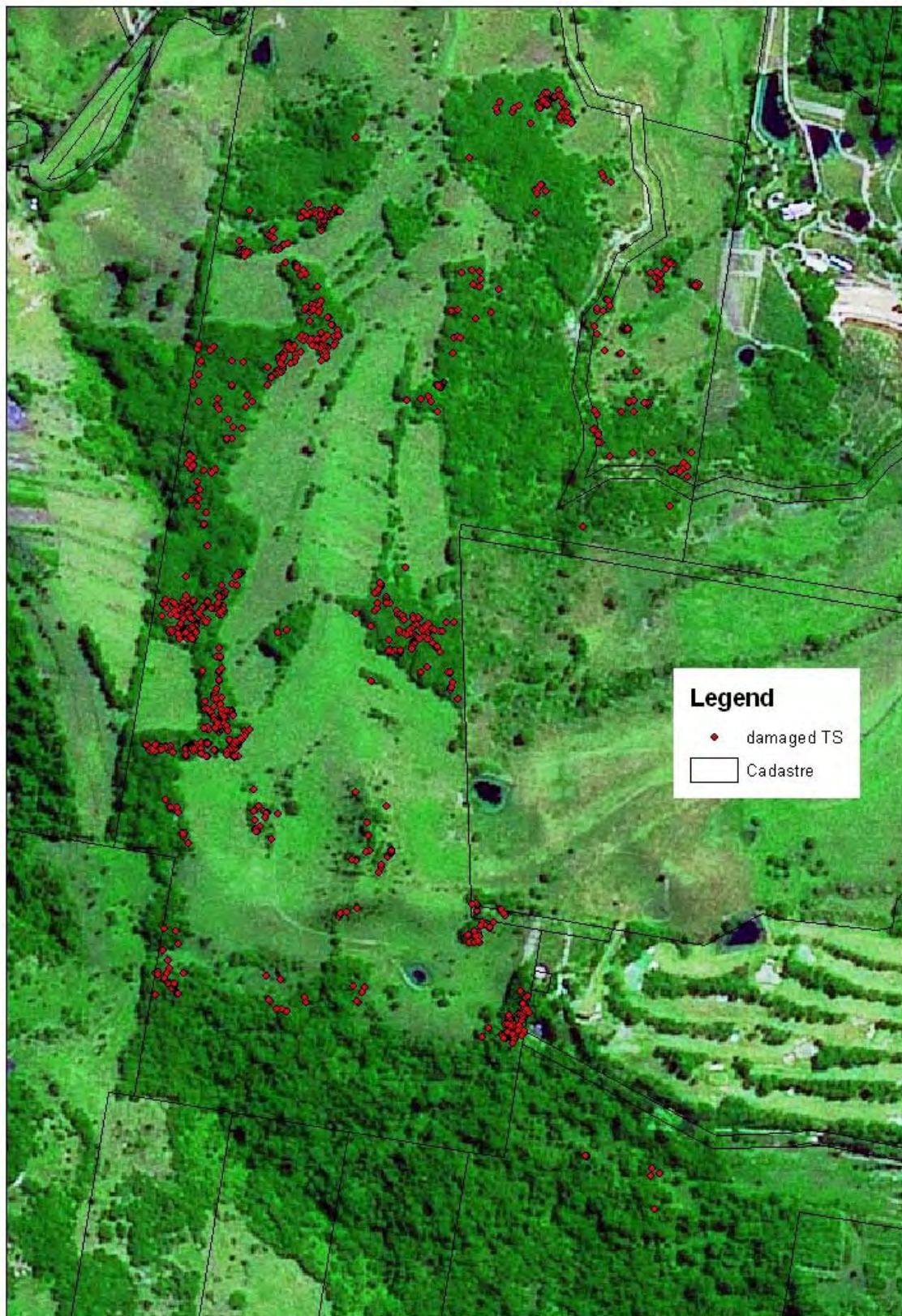
Restoration is usually required on at least a 3:1 basis (State significance eg SEPP 14 requires 10:1)

Ecology References

Floyd A (1990a) Australian rainforests in New South Wales. Volume 1. (Surrey Beatty and Sons: Sydney.)

Floyd A (1990b) Australian rainforests in New South Wales. Volume 2. (Surrey Beatty and Sons: Sydney.)

Figure 2: Location of threatened flora species damaged in 2006, indicated in red.



Precinct J Suitability

(Planning For Bushfire Protection Guidelines, Ecology & Engineering)

On 3 September 2009 Council wrote to the NSW Rural Fire Service in regards to Precinct J as follows:

“Council (with the Applicant's support) would like to discuss with you the possibility of the NSW Rural Fire Service supporting the removing of the proposed western egress road servicing Precinct J - I refer you to the attached plan.

Precinct J is an isolated development proposed amongst Low Land Rainforest of an Endangered Ecological Community (EEC).

Council's Assessing Officer's preferred option is to have Precinct J removed from the concept plan in its entirety, however in anticipation that Precinct J may be approved (as proposed) by the Minister, Council would like to have it's impact on the surrounding EEC significantly reduced. One way of achieving such a reduction would be to have the western egress road removed as this becomes a secondary barrier, bisecting the EEC.

Precinct J(as currently proposed) comprises of;

- *Road 140, being a cul-de-sac of approx 420m in length, comprising of a 7.5m wide pavement (kerb to kerb) within a 16.0m Road Reserve, with a 1.8m footpath on one side (Road Type C).*
- *36 x 2/3 storey townhouses (located in several blocks)*
- *a western egress road(details of which have not been provided in the application, but my understanding is that it has been provided to provided egress for vehicles during a bushfire)*

Council acknowledge that Road 140 would be significantly longer than the maximum allowable for a cul-de-sac under the PBP 2006 (being 200m), but suggested that if Road 140 was increased to provide a minimum carriageway width of 8.0m (i.e. to comply with provisions of the Planning for Bushfire Protection (PBP) 2006 for 2 way traffic movement) and that appropriate APZs are provided around Precinct J (standard requirement), then this together with the fact that proposed Road 140 travels predominantly away from the expected direction of bushfire travel (i.e. uphill) and that Precinct J services only 36 townhouses (i.e. not much traffic would be expected), then the NSW RFS could support the removal of the western egress road.

By increasing the width of Road 140 by 0.5m (or more as required), the increased impact by Road 140 on the EEC would only be marginal, but if this could eliminate the need for the western egress road, then the overall impact of Precinct J on the ECC would be considerable reduced.

Road 140 is currently proposed with a maximum longitudinal grade of 16.39% which complies with grading requirements of the PBP 2006, being 15° (or approx 26.8%).

Council would also enforce that a standard cul-de-sac head is provided within Precinct J.

As stated above, the Applicant is also supportive of having the western egress road removed. If you could take this into consideration in your assessment and provided options on how this could be achieved, that would be greatly appreciated."

On 10 September 2009 Council received a response from the NSW Rural Fire Service in regards to Precinct J as follows:

"I have already responded to Darryl Anderson Consulting acting on behalf of the DoP, expressing the RFS's concerns with the creation of residential area "J".

I do not consider that the proposal (area J) meets the aims and objectives of PBP.

If you wish to discuss further please phone me.

*Regards,
Garth Bladwell
Development Assessment and Planning
NSW Rural Fire Service Headquarters"*

This response further justifies the ecology position above to :

- Remove Precinct J, restore the habitat values within this proposed precinct area and protect the then reasonably large and contiguous area of rainforest remnant in perpetuity as the only available suitable area to offset impacts arising from other parts of the site such as the Spine Road.

Infrastructure

This Community Title Development is requesting a major departure from Council practice (DCP A5.6.1) in proposing that Council own, operate and maintain the potable water and sewer infrastructure within the community title subdivision.

Council Executive Management Team has agreed that Council could accept to own, operate and maintain the potable water supply and sewerage reticulation system in the proposed RISE community title subdivision, excluding any portions of the development that are gated communities, and conditional on the developer

- providing infrastructure in accordance with the requirements of DCP A5 and to the satisfaction of the Director of Community and Natural
- entering into an agreement with Council for the provision of the services
- providing normal easements where services are to be provided within private land (other than the community lot).

Water Supply:

1. The proponent intends to provide two different water supplies to the development; potable water from Council's reticulated water supply, and non-potable from recycling storm water collected from roofs and from road ways and open space areas. The collected stormwater is to be treated and reticulated from a 3ML reservoir to the various consumers for toilet flushing, outdoor uses and irrigation of public open space. This latter system will require licenses under the Water Industry Competition Act administered by IPART. It is assumed that if there were a failure of the licensee for the recycled water scheme, Council would be nominated as the "supplier of last resort" under the WIC Act and would be obliged to take over the operation of the recycled water system.
2. The Integrated Water Cycle Management Plan (IWCMP) and the Utilities and Infrastructure (U & I) Report indicate that the recycled stormwater will not be able to supply water throughout all drought conditions and hence an interconnection with the potable water supply will be required. Council's requirement is that there should be only one permanent interconnection at the recycled water reservoir. This supply point shall include effective backflow prevention and a bulk metering installation for charging the Community Association for water to augment this supply. There are to be no interconnections at the lot level, i.e. in buildings, private homes, public facilities, etc. In the event that the recycled stormwater system does not proceed, the development should be required to mandate minimum 5000 litre rainwater tanks at each individual dwelling and equivalent tanks for multi-dwelling buildings plumbed to supply water for toilet flushing, laundry cold water tap and external uses.
3. The development is required to provide a reservoir sized to store one day of maximum day demand for the whole of the development. As the recycled water system is not drought proof, the storage must be sized on the total water demand rather than the potable demand. Accordingly, the Utilities and Infrastructure Report has proposed a 7ML reservoir that will replace Council's existing 1.1ML reservoir on the site. The proposal is to develop the reservoir in two stages so that the existing reservoir will remain in service until the first stage can be put into service. The site of the existing reservoir is not large enough to accommodate the new reservoir. The developer is required to add such land as necessary, transfer that land to Council and consolidate the site into one parcel of land, dedicated to Council in fee simple. The developer shall provide easements or public road access to the reservoir site. At this stage it is not clear whether this reservoir will service any additional area other than in RISE and the existing area serviced by the existing reservoir. Accordingly, Council does not anticipate any contribution to the cost of this reservoir. This reservoir is required prior to any development beyond the equivalent demand of the previously approved subdivision of the area now shown as Precinct B (76 equivalent tenements).
4. The development shall relocate the trunk water main supplying this reservoir to the road reserve when the spine road is constructed.
5. Council will accept statutory easements where reticulation mains are in the Community Lot (access ways) but if mains are in private land Council will require normal easements over them. (U& I Report Part B 2 Proposed Variations to DCP D11 Item 3).

6. Council requires normal easements over trunk water mains where they are not in a public road reserve. This includes the alignment of the proposed 450 diameter main to the proposed future reservoir at Precinct C where it is desired that an easement 5m wide be provided over the alignment of the main from McAllisters Road to the reservoir site. (U & I Report Part B 2 Proposed Variations to DCP D11 Item 3)
7. The reservoir site at precinct C is to be transferred to Council in fee simple at a cost to be negotiated. Access to this lot is to be provided either by public road or an easement for access. Council prefers to keep the transaction for the acquisition of the reservoir site separate to Section 64 Developer Contributions as opposed to the suggested headwork's credit arrangement in the "Draft Heads of Agreement" item no 3. In association with this reservoir, Council requires an easement five (5) metres wide for the construction of the trunk main supplying this reservoir, particularly given the slope of terrain from McAllisters Road to the site.
8. It is a concern that the proposed access way within the community lot to the reservoir at Precinct C is 13m wide and may not be large enough for construction access if the reservoir and trunk main are not constructed prior to the development of the lot. There may also be an issue of maintenance of this access if it is a community road, with the community association requiring Council to pay for road repairs. This should become part of an agreement between Council and the Developer to clarify responsibility.
9. The development proposes a boosted zone to supply water to the highest portions of the development. As this includes land that is higher than the level that can be served by the proposed reservoir, it is proposed that the booster pump set should have a standby diesel pump or diesel generator set so as to ensure that supply is available at all times. WSA 03-2002 Section 2.6 Pump Stations at item (e) precludes in-line booster pumping without high level storage unless satisfactory pressures can be provided when there is a failure. Council will require that the development include an elevated tank of at least 200kL capacity filled by a pump with a standby generator set to ensure the supply to the area is not disrupted during the change over period or in the event of a failure of the generator. If the elevated tank is of a suitable level, the booster pump may not be required. If the elevated tank is at a height to supply only fire flow, the booster pump set will be required, but may not require a separate standby generator. The elevated tank and water pump stations are to be situated in parcels of land transferred to Council in fee simple with either public road access or appropriate rights of access and easements.
10. Council will not grant any reduction in S.64 Development Contributions ("headwork's credits") on the basis of the reduction in water usage estimated in the IWCMP. As the recycled water system will rely on Council's potable water system for demand in drought conditions, Council still has to provide the same water supply treatment and conveyancing infrastructure to meet the peak demand, even if it is not having to supply the same average demand if the recycled water system was not provided.
11. The location of services within the community lot where it is an access way (community scheme owned streets) should generally be in accordance with the standard footpath and service allocation in Development Design Specification D1, although there may be specific instances where some variation may be necessary

given the addition of recycled water reticulation and roof water collection systems. (U & I Report Part B 2 Proposed Variations to DCP D1 Item 5, D11 2).

12. The U & I Report asserts that Council has capacity either existing or in planned augmentations of its water supply infrastructure to service this infrastructure. Whilst this development has been taken into account in these planned augmentations, availability of capacity depends upon development approvals and funding of the augmentations being obtained.
13. Whilst the general concept of three pressure zones is accepted, an additional pressure reducing valve installation is required to limit the pressure in the main between the high level zone and the low level zone, and it is desired that the low level zone pressure be able to be reduced to about 70m AHD so that when an interconnection with the Walmsleys Road zone is eventually achieved, the pressures can be matched if desired.

Sewerage System:

1. The connection point for sewerage for this development is SPS2018 Gollan Drive pump station. It is the developer's responsibility to provide all infrastructure to convey sewage from the development to this location. No credit for headwork's contributions (Section 64 Development Charges) shall be given for any trunk infrastructure required for this connection.
2. Assuming Council accepts ownership of the sewerage system, all sewerage pump stations are to be constructed in accordance with Council's requirements including the provision of lots transferred to Council in fee simple with either public road access or clearly defined right of access to each site. Sites within road reserves will only be acceptable where it is demonstrated that there is no other practical site and only with approval of the Director of Engineering and Operations as the asset owner of the road.
3. Sewers should generally be in the alignments nominated in Development Design Specification D12 unless there is a compelling demonstrated need for a particular sewer to be aligned differently. All sewers in private property not part of the community lot shall be placed within an easement in accordance with Council's specifications. Statutory easements within private land will not be accepted, but will be acceptable where sewers are located in the community lot (U & I Report Part B 2 Proposed Variations to DCP D12 Item 2 & 3).
4. Sewer loadings may be based upon 180L/ep/d provided design flows are estimated in accordance with the WSA 02 – 2002 Sewerage Code of Australia methodology that includes allowance for ground water infiltration and rain derived inflow and infiltration in addition to the 180L/ep/d (U & I Report Part B 2 Proposed Variations to DCP D12 Item 1).
5. The initial connection to sewer of the equivalent loading to the previously approved subdivision of the area now shown as Precinct B (76 equivalent tenements) may be made to the Council sewerage pump station SPS2035 McAllisters Road provided that the developer provides suitable upgrading of the pump station and any downstream infrastructure necessary.

6. The U & I Report proposal to use the existing private treatment plant as a storage facility to permit “off peak” pumping of sewage into the system is not accepted as the problem is not the daily peak flows but capacity of the system when there is a wet weather event which can occur at any time of day or night and can last for a considerable time. The true peak flows in the system occur during such a storm which may occur during the “off-peak” pumping.
7. Property connection sewers should comply with the requirements of D12 and not exceed 10m length. Where necessary, the sewer shall be appropriately extended. (U & I Report Part B 2 Proposed Variations to DCP D12 Item 4).
8. The requirements of D12.30 in respect of trunk sewers shall not be relaxed or deleted but if there is a specific design issue, the designer should submit any proposed minor variation to Council prior to Construction Certificate for approval by the Manager Water. (U & I Report Part B 2 Proposed Variations to DCP D12 Item 5).
9. The U & I Report asserts that Council has capacity either existing or in planned augmentations of its sewerage infrastructure to service this infrastructure. Whilst this development has been taken into account in these planned augmentations, availability of capacity depends upon development approvals and funding of the augmentations being obtained.
10. Contrary to the assertion of the U & I Report, the Development Servicing Plan does not provide for any works between this development and the nominated connection point. Accordingly no headwork’s credits are available nor can Council provide funding of any works upstream of the connection point. If the development of Cobaki Lakes is sufficiently well advanced, it may be possible for RISE to augment the capacity of the proposed sewerage pump station at Piggabeen Road and Cobaki Creek and contribute to the construction of the staged sewer rising main system from that point to Gollan Drive. Such augmentation may involve the construction of a secondary wet well, pump upgrades and associated works.

Summary of Existing Capacity Timing and Management of Staged Construction of Infrastructure. (U & I Report Section 9)

The U & I Report Section 9 reflects various statements from the Report indicating staging, timing and funding. This Section needs to be adjusted to reflect the various comments above.

Draft Heads of Agreement (Appendix 28)

The application includes a “Draft Heads of Agreement” between Terranora Group Management Pty Ltd and Tweed Shire Council. Water Unit comments on various items are as follows:

3. Council prefers to purchase the reservoir site and associated easements independently of water supply headwork’s charges. This keeps expenditure on headwork’s and collection of Section 64 Development Servicing Charges separate and more transparent.

4. Council will not grant water supply headwork's credits (S.64 Charge credits) for the target reduction in consumption due to implementation of the IWCMP because the IWCMP still relies on the capacity of Council's water supply system to supply water for all uses in drought circumstances where the recycled stormwater collection system cannot supply water. Council still has to provide the same water supply treatment and conveyancing infrastructure to meet the peak demand.

Council will accept ownership, operation and maintenance of the proposed Sewer Pump station to be located adjacent to Cobaki Road provided it is constructed to Council's standards and requirements.

6. Council will not grant sewer headwork's credits for the sewer rising main and sewer pump station from the site to the Gollan Drive Sewerage Pumping Station. Council will consider the need for any additional capacity required in this system at the time that the system is being designed and will negotiate any marginal cost for any increased infrastructure size then. The draft Bilambil Heights Local Area Structure Plan has no current status and may not be relevant to the actual needs.
7. Council will apply water and sewer access and volumetric charges as it does in non community title areas. Council will not levy access and volumetric charges in relation to the proposed IWCM recycled water system unless it is appointed the supplier of last resort under the Water Industry Competition Act.

In addition to the points above, it is desired that the relocation of the trunk main to the Country Club Reservoir be included in the agreement between Council and the Developer. Council has a need to replace the existing 150 diameter main with a 250 diameter main in the short term to address a situation where the capacity required for the area currently served has grown to beyond the capacity of a 150 diameter main. As the existing main is within the former road reserve and some easements, its location does not accord with the proposed development. At this stage however, it cannot be constructed along the alignment of the proposed spine road. To facilitate Council's need to address the serious under-capacity at an early stage, the developer has agreed in meetings to agree to a temporary main being constructed generally adjacent to the existing main and to relocate the main by construction of a permanent main in the spine road alignment as that section of the development is constructed. Whilst this has been included in the Utilities and Infrastructure Report, it is desirable to have this form part of the agreement between Council and the Developer.

Other Minor Infrastructure Points

Page 4 of the U & I Report incorrectly references Council's Development Design Specifications D11 and D12 as D10 and D11 respectively.

References throughout the document to the Boostered Level Zone should be Boosted Zone. (Contents & Pages 10 & 13)

Engineering Statement of Commitments

The following modifications and additions to the statement of commitments are requested.

Item 15: Water Sensitive Urban Design

Add:

“Any buildings not connected to the rainwater collection and stormwater recycling system proposed in the Gilbert and Sutherland report shall be mandated to have the following minimum rainwater tanks installed and plumbed for toilet flushing, laundry cold water and external usage:

| | |
|--|--|
| <i>Single Dwellings</i> | <i>Minimum 5000L rainwater tank with a minimum 160 m² roof area connected to it.</i> |
| <i>Multi Dwellings & other buildings</i> | <i>Rainwater tanks to be provided on a similar basis connecting 80% – 90% of the roof area.”</i> |

Add:

“The developer will obtain all necessary licenses to operate this system and retail recycled water either directly or through another party appropriately licensed.”

Item 21: Water Supply

Modify the commitments as follows:

- 21.1.1 Provide TSC reservoir sites in fee simple as follows –
- Precinct C at agreed valuation
 - Precinct K at no cost to Council
- 21.1.2 Provide water main easements for trunk infrastructure not in road reserves and to enter into an agreement with Council for statutory easements to apply over reticulation infrastructure in community land in accordance with the provisions of Development Design Specification D11.
- 21.1.3 Developer to build internal trunk water infrastructure and reticulation mains in accordance with DCP A5 including Development Design Specifications D1 and D11 except as specifically agreed with TSC, and Development Construction Specification C401, including the relocation of trunk water mains located in the site, such infrastructure to be transferred to Council prior to the issue of the subdivision certificate for each relevant stage. Such infrastructure will include storage at an adequate level to ensure no loss of supply due to a booster pump failure in the proposed high level zone.

Add the following commitment:

- 21.1.4 Developer shall transfer the site of any water supply pump station, booster pump station and elevated tank to TSC in fee simple and shall provide a right of access

to all pump station, reservoir and elevated tank sites if the sites are not adjoining a public road reserve.

Item 22: Sewerage

Modify the commitments as follows:

- 22.1.1 Provide a sewer rising main and all necessary sewer pump stations from the site to the regional pump station SPS2018 Gollan Drive.
- 22.1.2 Developer to build the trunk sewers, reticulation sewers, sewer pump stations and all associated works in accordance with DCP A5 including Development Design Specifications D1 and D12 except as specifically agreed with TSC, and Development Construction Specification C402, such infrastructure to be transferred to Council prior to the issue of the subdivision certificate for each relevant stage.

Add the following commitments:

- 22.1.3 Provide easement to drain sewage over all sewer infrastructure not located in the community property, public road reserve or Council owned land in accordance with the provisions of Development Design Specification D12.
- 22.1.4 Developer shall transfer all sewer pump station sites to TSC in fee simple and shall provide a right of access to all sewer pump station sites if the sites are not adjoining a public road reserve. If the pump station site is located on TSC controlled road, the approval of the Director of Engineering and Operations shall be obtained for that site.
- 22.1.5 Developer shall provide any necessary upgrade to existing Council infrastructure to allow the connection of the first stages to Council's sewerage system.

Item 24: Contributions

Number existing commitment as 24.1.1

Add the following commitment:

- 24.1.2 Payment of all Local Government Act S.64 Development Servicing Charges without credits applying. (TSC to pay separately for any infrastructure not required for this development e.g. Precinct C reservoir site).

Entomology

Council's entomologist does not have any major concerns regarding mosquitoes and biting midges at the proposed "Rise" development. However, the following comments are provided:

The proposed “Rise” development is situated a reasonable distance from mosquito breeding areas; however, occasional seasonal influx of saltmarsh mosquitoes moving up vegetated hillsides to parts of this site from adjacent to Cobaki Broadwater and below Bilambil Hts does occur.

It is anticipated that extensive wetland restoration works proposed at both these mosquito source sites will substantially reduce the favourable breeding sources of these mosquitoes well before the “Rise” development begins.

Realistically, there is not much that the “Rise” developers could do to reduce occasional mosquito influx into the site without compromising other desirable environmental outcomes such as revegetation and wildlife corridors. Comments in the consultant’s pest control (toads) attachments allude to restricting on-site ponding during construction – this action will also eliminate on-site mosquito breeding.

When landscape/stormwater retention ponds are established, Council’s entomology unit should be notified to effect release of local native larvivorous fish into these ponds.

Social Planner

Future stages and/or any Preferred Project Report (PPR) should

- Clearly show the cycleway, footpath and shared path network, with particular regard to access between seniors residential facilities and village centres, noting any road crossings and any steep slope;
- Anticipate a total population capacity estimate for each precinct, distinguishing between persons in dwellings/lots and persons in medium density units/apartments. The DoP has released 2008 population projections which should be used to update the demographic population data.
- The documentation references The Tweed regional Development Strategy which has been superseded by TSC Urban & Employment Land release Strategy 2009.
- Incorporate a Statements of Commitment to the effect that *“the developer provides community facilities as recommended in the Tweed Shire Community Facilities Plan 2007 in step with residential development”*
- Precincts F and S Nursing Homes and M Retirement Living do not appear accessible on foot to their village centres. Their isolation needs to be reduced by closer proximity. Precinct R Village Store and Service Station also have a limited catchment, and perhaps should be developed as part of any sports fields on this site should these facilities proceed at this location.
- Commit to entering a Voluntary Planning Agreement with Tweed Shire Council for Community Facilities as Tweed Shire Council S94 Plan. No. 15 does not apply to areas outside the coastal regions. As the strategic planning for the Bilambil Heights Urban Land Release Areas has not been undertaken to date this is considered necessary and directly related to the needs associated with this development.

The Community Facility Plan 2007 recommends (P.65) Bilambil Hts (8,000 pop.) have a Multi-Purpose Centre (1000-5000m²) with attached Childcare Centre (200-400m²).

This recommendation should be pursued, and any proposals by “Rise” developers to construct facilities given serious consideration to enable early facility development.

The community buildings actually proposed by the developers (A-12, A-13, A-14, N-7) could fulfil much of the Community Facility requirement if appropriately designed, transferred to Council and leased back.

These matters should be further discussed with Council the applicant and the Department of Planning.

Waste

Council's Coordinator Waste Management Unit requires the developer to offer a statement of commitment to prepare a Waste Management Plan (WMP) for the development. The WMP is designed to control the volume of waste generated at the development, and the proposed waste management practices for a development.

The WMP should include the following information:

- Demolition of the existing structures
- The volume and type of waste generated during demolition
- The methods of storage of material on site. A site plan should be included.
- How recyclable materials will be separated, managed, and where the materials will be sent for recycling
- The location and methods of disposal of all residual waste. A remediation Action Plan may be required if the applicant wishes to dispose of the floor slabs or contaminated soil at Councils licence waste facility.
- The licenced transporter of the waste

Construction

- The type of waste generated during construction
- The method and location of waste storage on site
- How any recyclable materials will be managed
- The location of the disposal facility for residual waste
- Ongoing waste management strategies

Site Occupation; where the application details multi unit residential accommodation, and/or commercial tenancies;

- Details of waste storage containers to be used by the development (ie mobile garbage bins or bulk bins, how many, frequency of collection etc.)
- Location, size, and design of waste storage areas, reference to Councils Code for Storage and Disposal of Garbage and Other Solid Wastes
- Nominate collection point for servicing
- Details of access for contractor where necessary.

Annexure 27 is noted detailing correspondence from Council's Waste Contractor Solo Resource Recovery providing a commitment to service the development. Further information is required to provide details and commentary that the internal road network is adequate to allow for the garbage and recycling collection vehicles to access the proposed

allotments, and service the properties and turnaround in a forward drive direction only (i.e. no reversing of vehicle).

Ongoing waste management strategies

During the demolition and construction phases it is the responsibility of the site manager to ensure that the above management measures are inspected and maintained on a daily basis.

Infrastructure Engineer

Stormwater Management

The development is located mainly along a ridge line at the top of the runoff catchment. The applicant proposes to service the development by a dual reticulation water system, with potable domestic water and non-potable recycled stormwater services. According to the Concept Plan and associated engineering annexures, the recycled stormwater system would function as follows:

Stormwater runoff from roof, road, and open space areas throughout the development will be captured, treated, stored and reticulated throughout the development for domestic reuse (toilet flushing, outdoor use) and for irrigation of open space areas.

The recycled stormwater system will be owned, operated and maintained by the community association.

Roof water will be collected and directed to a collection tank located within each precinct. It is not specified how the roof water will be separated from the rest of the subdivision runoff, but it is assumed that it would require a separate piped collection system to each tank. Water from the collection tanks will then be directed to a central treatment plant.

Runoff from other parts of the subdivision will be collected in the normal street drainage system, and directed to treatment wetlands and storage dams around the site. Should the collection tanks run low, stormwater would be harvested from these storages, and directed to the treatment facility.

Once treated, the recycled stormwater would be stored at a central reservoir and distributed for reuse to the individual lots, primarily by gravity systems. Usage would be metered.

As a concept, this system is generally acceptable, and has a number of advantages, including:

- Significant mitigation of post development stormwater runoff rates, minimising potential downstream impacts of the development;
- Reduction in potable water demand;
- Dual reticulation system based on recycled stormwater is likely to have a higher community acceptance than a recycled sewage effluent system.

Limitations of the systems include:

- The inability of the system to operate during dry weather, when storages are empty, and demand for outdoor irrigation uses is at its highest;
- To ensure that sufficient potable water systems are available in case of a system shut down, break down or prolonged dry period, the development will still need to be serviced with full sized infrastructure to cater for water peak demand, with no contribution from the recycled stormwater system. As such, there are no meaningful savings on water infrastructure, despite the reduced potable water demand. The requested reductions in headworks contributions for water supply are also unlikely to be supported by the Water Unit, thereby further reducing the financial incentives to provide the centralised recycling system (refer to separate comments by Peter Pennycuick regarding the request to reduce contributions).
- The investment in a centralised stormwater recycling system is questionable when compared with the relatively low cost of providing individual water tanks on future residential development, in accordance with BASIX. The duplication of infrastructure to collect, treat and reticulate the recycled stormwater throughout the development does not appear to be energy or resource efficient, if this water is to be primarily used for toilet flushing and outdoor irrigation. Domestic rainwater tanks already achieve this objective without the many kilometres of collection and distribution network. Dams, treatment wetlands and detention areas could still be harvested for irrigation of larger open space areas, and would need a relatively small collection and treatment system.

As stated, the concept of stormwater recycling and IWCM is generally supported for the development, however the applicant needs to consider whether the nominated system is the most economical and practical for the development. Ultimately this is a commercial decision for the developer, and not Council.

Stormwater quality control will be provided by constructed wetlands in the larger catchments, and by permanent treatment devices (Humeceptors etc) on the smaller catchments, in accordance with D7. The exception is Residential Precinct J, where a biofiltration treatment and disposal system is proposed. No detail of this system is provided. All systems need to be connected to a lawful point of discharge, which must either be an easement through downstream land, or direct discharge to a watercourse. In locating stormwater facilities, particular consideration needs to be given to the likely urbanisation of downstream properties, to ensure that the stormwater management systems do not adversely impact on the developability of that land, due to the risk of failure or overtopping, buffer requirements, or geotechnical issues.

The golf course site at the eastern end of the development, which is proposed for retirement living (Precinct B) is the subject of an existing approval for a 76 lot residential subdivision (DA05/1351). As this portion of land drains to McAllisters Road through existing urban development, considerable investigation and negotiations were required during that DA process to provide an acceptable stormwater management system. The developer was required to provide on site detention (OSD) systems, treatment facilities, and failsafe overland flow paths and interallotment drainage systems in order to obtain that approval. Urbanisation of this precinct under the subject concept plan will require a similar level of

stormwater management, which needs to be investigated thoroughly in future applications. This must be addressed in the Statement of Commitments.

Flooding

The vast majority of the site is elevated well above regional flood levels, with the exception of the proposed playing fields on Cobaki Road, adjacent to Cobaki Creek (Precinct U). The applicant acknowledges that the fields are located in a high flow area, and are therefore subject to strict filling and development controls in Council's DCP-A3. The applicant commits to undertaking more detailed flood impact assessment of the playing fields proposal in later stages.

Based on Council's 2005 Tweed Valley Flood Study, design flood level for the playing fields site ranges from RL3.5-4.0m AHD, due to flood gradient in this part of Cobaki Creek (note that this is a regional Tweed Valley model, based on a 36 hour duration, and not a specific flood study of Cobaki Creek where shorter duration floods may govern). Based on the development footprint shown in the concept plans, a design flood level of RL 3.7m AHD appears to be most applicable.

On 6/3/09, I sent the following email to Ian Clark of Gilbert and Sutherland regarding the flooding constraints on the playing fields site:

"The extent of hydraulic modelling is difficult to assess without an understanding of the extent of the playing fields, and the degree of modification required. Based on your map, I have provided a snap shot of the site with metre contours and an aerial photograph. This confirms that there are a number of transient watercourses/gullies that traverse the site, and would likely convey out of creek flood flows. There are also a few dwellings and other buildings in the vicinity, that may be adversely affected by changes to the flood regime.

In order for the site to be acceptable for playing fields under DCP-A5 Subdivision Manual, it must be filled (as a minimum) to Q100 -1m. This will likely require modification of these flood paths, and a supporting hydraulic analysis.

Council's existing Tweed Valley Flood Model is limited in its ability to deal with the local catchment events that will affect the site. The model is a regional flood model, based on a 36 hour duration rainfall event, and the site is near the western extent. Consideration of a shorter duration event e.g. 12-18 hours would likely yield more relevant results.

Council's Flooding DCP (Section A3) limits development within mapped high flow areas. High flow is defined by a velocity-depth product > 0.3 from the Tweed Valley Flood Model. The attached map shows high flow areas in red, and shows the proposed playing field site is within the high flow area. As such, the DCP limits filling of this rural zoned land to 300mm above natural surface level, to maintain flood flows, and limit cumulative development impacts.

Based on the above, it may be difficult to achieve DCP compliant playing fields on this parcel, regardless of modelling results."

The issues raised in this email have only been addressed in a cursory manner in the concept plan. Concern is raised that if future flood analyses confirm that the sports fields are not a feasible option in the proposed location, no suitable alternative site is available.

Few details of the sports precinct have been provided in the concept plan, which makes it difficult to properly assess. Additional information is therefore requested.

Site Regrading

Due to the steep and undulating topography of the site, significant bulk earthworks are proposed to provide compliant road gradients and developable sites. The steepest parts of the site (>25%) will remain largely undeveloped. According to the engineering report, areas of the site requiring in excess of 5m cut or fill represent 6.27% of the total site area, and therefore comply with the DCP-A5 and D6 maximum of 10%.

The applicant has attempted to incorporate slope constraints into the development design, and selection of appropriate building concept designs. The applicant should note that the use of retaining structures integral to building platforms or incorporated into the building footprint is acceptable under Council's site regrading criteria, without the need for variation.

The applicant requests deletion of retaining/batter height limits in DCP-A5 and D6 in order to achieve conforming road grades (max 12% as agreed by Council) on the Spine Road. As the Spine Road does not have direct allotment access, traverses difficult terrain, and is the main traffic link through the development, variations to retaining wall / batter heights are generally acceptable subject to future detailed design (including geotechnical and stormwater investigations), and in accordance with further comments from Council's Development Engineer. All other roads, whether in public or private tenure should comply with retaining/batter height limits imposed by DCP-A5 and D6 and maximum road gradients imposed by D1.

The concept design for the Spine Road, given the above variations to retaining / batter heights requires a wide road reserve in many areas, and this may need to be increased further during detailed design where road safety aspects of the road are examined (i.e. the need for central crash barriers in the steep, winding section of the road). Such requirements should be highlighted to the applicant via the Statement of Commitments.

Variations to Development Controls

The engineering report proposes a large number of variations or deletions to development controls and engineering specifications that apply to the subject development. These requests are dealt with in detail in the Development Engineer's report. However in general, variations to engineering specifications and the Subdivision Manual (DCP-A5) are not supported. These documents were produced with extensive industry consultation (particularly in the case of landforming policies), and where applicable adopt Natspec / Austroads / WSA and Australian Standards. Minor variations that address specific site conditions or result in better engineering / town planning outcomes could be supported, however where aspects of asset longevity, public safety, maintenance and general community amenity are concerned, variations should not be granted.

Roads & Access

The main traffic route through the development is the Spine Road which extends off Marana Street around the western extent of the site and connects to Cobaki Road to the north. This Spine Road and the two proposed connector roads to the future urban release area to the north east are the only roads to be dedicated to Council as public roads. Other local roads remain under community title.

Clause A5.4.10 of DCP-A5 requires that future urban areas are adequately connected to the local movement network:

Future connections

Street stubs should be provided at spacing's of 200m or closer to enable street connections to be made to adjacent future urban areas. The location of these connection points should consider the future overall network requirements of the district.

Scaling along the site's northern/eastern boundaries the spacing between the two road stubs is approximately 1050m, which indicates that additional connection(s) are required. However the topography and subdivision's community title nature makes the 200m spacing impractical. It is proposed to request a third road stub off the main roundabout on Road 1, in the "Hilltop Village Area" (Precinct L). This will also require dedication of the section of Road 1 from the roundabout to the Spine Road. Limited contour information provided with the concept plan shows that this stub road should be feasible. This provides three nodes for future urban release areas to connect to, and provide desired links to future commercial centres and the Spine Road.

The applicant should investigate options for one addition connection point.

Additional Engineering Infrastructure Information required

Council requests details of the playing fields precinct (Precinct U) located adjacent to Cobaki Creek, in order to properly assess the potential flooding and stormwater drainage impacts of the proposal, and its compliance with Council's DCP Section A3 (Development of Flood Liable Land). Details shall include:

- Scale drawings of the precinct, depicting concept layout of facilities;
- Survey contours of existing ground levels, including existing water courses and flow paths. Survey detail must extend into adjoining properties in order to properly assess potential impacts on local stormwater drainage and flooding behaviour;
- Proposed finished ground level contours;
- Cut and fill plan, indicating the intended depth of cut/fill earthworks across the site;
- Conceptual drainage plan for the precinct, including runoff treatment and reuse facilities, and lawful point of discharge.

Alternatively, the applicant could enter into a voluntary planning agreement with Tweed Shire Council in regards to the sports fields as discussed with the applicant.

Engineering Infrastructure Statement of Commitments

Stormwater Management

- i) Stormwater management facilities, including wetlands, dams, storage tanks and related overflows shall discharge to a lawful point of discharge, as defined by Council's DCP Section A5 (Subdivision Manual). The location and operation of these facilities shall not adversely impact on the ability to develop downstream urban zoned land by way of nuisance flooding, geotechnical instability, or safety issues.
- ii) The development shall provide stormwater quality control measures, in accordance with Council's DCP Section A5 (Subdivision Manual) and Development Design Specification D7 - Stormwater Quality.
- iii) A Project Application for the development of Precinct B (Retirement Living) shall include a detailed stormwater management system, commensurate with the system approved under DA05/1351 (76 lot subdivision) over the same land, in order to minimise stormwater impacts on downstream land and Council infrastructure.

Roads and Access

- i) The development shall provide an additional road stub from the "Hilltop Village" roundabout on Road 1 to the adjacent property boundary as a future public road connection to the Bilambil Heights urban release land to the north-east of the site. The portion of Road 1 up to and including the roundabout, as well as the new road stub shall be dedicated to Council as public road, within an appropriate road reserve to be created the Spine Road to the property boundary.
- ii) The plan of subdivision shall include the dedication of public road reserves to Council. The road reserve containing the future Spine Road must be of sufficient width to accommodate the full road formation, including batters and retaining structures, stormwater drainage and road safety measures.
- iii) Detailed design of the Spine Road shall include a safety audit of the proposed horizontal and vertical alignments, and where warranted, the design shall incorporate central crash barriers and road widening.
- iv) Detailed design of the Spine Road shall consider the maintainability of road batters and retaining structures, and where required by Council, shall provide for benching, landscaping and appropriate stormwater drainage measures to provide maintenance access and minimise the risk of erosion and scouring of slopes.
- v) The provision of private infrastructure within public road reserves requires separate s138 Road Act 1993 approval by Council, and shall be subject to licensing or other arrangements to the satisfaction of Council.

- vi) All public road reserves shall be of adequate width to accommodate public and private infrastructure, such that maintenance works can be carried out with minimal traffic disruption.

Flooding

- i) The playing field precinct (Precinct U) on Cobaki Road adjacent to Cobaki Creek shall only proceed if detailed hydraulic modelling confirms that the development of that precinct will not have significant adverse impacts on local flooding and stormwater drainage behaviour in the locality, to Council's satisfaction. The impact assessment must address the current controls in Council's DCP Section A3 (Development of Flood Liable Land) regarding development of high flow areas, and minimum fill requirements for playing fields in DCP Section A5 (Subdivision Manual).

Traffic

A Transport Impact Assessment was submitted as part of the application by CRG dated 14 April 2009, which is hereafter called "the report". The report has used traffic generation rates from Council's Section 94 Plan No. 4 (Tweed Road Contribution Plan or TRCP) for the impact assessment. These traffic generating rates were also used in the calculation of spare traffic capacity for Kennedy Drive in a report from the Director Engineering and Operations to Council in June 2007. The traffic generation rates as recommended in the RTA NSW's document "Guide to Traffic Generating Developments" should have been used for estimating development traffic, however, for the purposes of estimating a threshold of traffic for this development before the Cobaki Parkway is required to be constructed, the TRCP traffic generation rates can be used.

The report states that 68% of residential trips will use Kennedy Drive and therefore the project will need to generate 3,911 trips per day in order to generate 2,650 vehicles per day on Kennedy Drive. Apparently the percentage traffic distribution has been derived from the Veitch Lister Consulting traffic modelling. I strongly disagree with this methodology. For the purposes of calculating spare capacity on Kennedy Drive in the report to Council stated above, all traffic generation west of the Cobaki Bridge was considered to access Kennedy Drive (i.e. 100%). The assessment of this development must assume the same, especially when considering that the TRCP traffic generation rates have been used rather than RTA rates (which are generally higher). The assumed 68% distribution of traffic has major implications as to the traffic capacity threshold for the development when the Cobaki Parkway needs to be completed. The development of the site must be limited to the existing traffic generation credits attributed to the site (2,650 vpd) with 100% of this traffic accessing Kennedy Drive. Once this credit has been exceeded, the Cobaki Parkway must be in place for further development to occur in accordance with Council's resolution of April 2008. Council's resolution stated (in part):

- "3. *The proposed Pacific Highlands project part of the Bilambil Heights land release may be permitted to progress beyond current restrictions based on traffic thresholds on Cobaki Bridge provided:-*

Cobaki Parkway is continuously constructed from Piggabeen Road to Boyd Street

The new "spine" road proposed through the site from Marana Street to Cobaki Road is constructed.

Cobaki Road from the "spine" road to Cobaki Parkway is upgraded.

4. *The remainder of the Bilambil Heights Land Release Area can only proceed beyond the current road volume allowances on Kennedy Drive when the Cobaki Parkway between Boyd Street and Piggabeen Road is continuously constructed, and then development must progress in a manner that progressively constructs the Scenic Drive Diversion from Piggabeen Road southward (i.e. all new development must have access to the Scenic Drive Diversion)."*

The report recommends the installation of traffic signals at the intersection of McAllisters Road and Scenic Drive. Traffic signal installation is not in accordance with Council's TRCP which has included the construction of a roundabout at this location. Traffic signals should only be considered after the consideration of the traffic impacts of a roundabout. A concept design of this roundabout has been completed by Council's Design Unit. There is no indication in the application of when this will be required in relation to staging of the development however it should be constructed as part of the first stage due to intersection safety considerations. Contribution credits under the TRCP could be obtained by the developer for its construction.

The report states that widening of Cobaki Road between the site and the Cobaki Parkway intersection should be to a 7m seal on a 9m formation however the report states that a traffic volume of around 3,000 vehicles per day is expected. This traffic volume would classify this part of Cobaki Road as a rural arterial which requires a 10m seal on an 11m formation under TSC's Development Design Specification D1. Similarly the report states that some 3,000 to 4,000 vehicles per day will use McAllisters Road / Marana Street / Mountain View Esplanade and that this route will have a capacity for up to 5,000 vehicles per day (i.e a neighbourhood connector). This amount of traffic would require pavement widening to an 11m width (neighbourhood connector standard) under Council's DCP-A5 Subdivision Manual and TSC's Development Design Specification D1. However existing pavement widths (which are around 9 metres) indicate that these roads fit the category of an access street widened for a bus route (i.e. maximum indicative traffic volume of 3,000 vehicles per day). Therefore 2 metres of road widening will be required along the length of this route, otherwise the traffic capacity will be limited to 3,000 vehicles per day, or only about 1,000 vehicles per day above current traffic volumes which imposes a significant limitation to the development as proposed.

The report states that a roundabout should be constructed at the Gollan Drive / Piggabeen Road intersection. This is supported, however this construction is not part of the TRCP and should be constructed by the developer at his cost. Again the timing of this construction has not been suggested within the report.

The traffic impacts of the proposed development traffic (including future development traffic along McAllisters Road) on the staggered T junction of Buenavista Drive / McAllisters Road and the McAllisters Road / Mountain View Esplanade intersections needs to be assessed by computer modelling – SATURN or other micro-simulation traffic modelling. The traffic impact assessment should provide recommendations as to any amendments or reconfigurations required at these intersections due to both development traffic and also 'ultimate' development traffic in the area.

The practicality of extending the road connections into adjoining properties should be investigated at least to a concept design stage to ensure that road construction is feasible into adjoining development sites.

In summary, further traffic assessment and clarifications are required to further this application.

Open Space

Population and Open Space requirements:

Table 25 (open space summary table) lists the projected population at 3,071 including 200 nursing home beds and 272 hotel visitors.

Regarding Structured Open Space (sports fields) a population of 3,071 generates a requirement for 5.22ha of sports fields. The submission however claims hotel visitors and nursing homes do not generate a demand for sports fields thus reducing the population to 2,599 and a structured open space requirement of 4.42ha. Historically Council has accepted such claims and CP 5 and 26 support this.

Regarding Casual Open Space, based on a population of 3,071 people, casual open space required would be 3.47ha. However, the submission claims exemption for nursing homes from this requirement, thus reducing the population calculation to 2,871, and casual open space requirement to 3.24ha. There is no provision for special consideration for nursing homes in the Subdivision Manual however, and casual open space calculations should include them.

Structured Open Space (Sports fields)

The structured open space required, as calculated above, is 4.42ha based on the population proposed. However, the proposed location and conceptual layout for the sports field ('Unstructured Sports Park') presents significant concerns for Council. The EA is incorrect in claiming agreement had been reached with Council regarding the layout and facilities to be developed. There was no agreement and such statements must be removed.

The area is poorly shaped for sports fields, with much of it unable to fit correctly oriented fields with suitable buffer areas. With the likely requirement of a riparian buffer of 50m, much of this land becomes even more unusable as sports fields. Note that sports fields are required to be at least RL Q100-1m AHD however this is for grass sports fields that suffer minimal impact from flooding. Special infrastructure proposed in the EA, such as tennis courts, multi purpose hard courts, BMX facilities or skate parks requires more security from flooding than this.

Subsequent meetings with the developers have established a preferred position, being that Council seeks useable structured open space that equates in area to the proposed population. The developer has expressed a desire to use the currently proposed location if possible, and to provide tennis facilities in particular. Council's position is it may be possible to provide a tennis facility on a small part of the proposed site, but there are many constraints over that land and provision of such a facility would not compensate for the

larger area of sports fields required. Council's preference is to have suitably embellished sports fields rather than a small intensively developed area as described in the current EA.

It is therefore acceptable for further negotiations to be undertaken over suitable facilities and design detail for the location currently proposed. However, the developer has agreed that much of that land is unlikely to cater for traditional sports fields, and alternative locations for an equivalent area with full embellishment is likely to be required.

The developer has proposed a 'statement of commitments' on this matter. This is included below with suggested additional words in bold:

"Subject to the density finally approved under the MP08-0234 application, or a pro-rata area calculation being adopted for adjusted densities in the final MP08-0234 approval, the applicant shall dedicate and embellish 4.42 hectares of structured open space in accordance with the development standards contained in Table A5-8.3 of Tweed Development Control Plan 2007, Part A5 or alternatively pay a contribution in lieu for the area that is not dedicated and embellished on the applicants land.

The amount of the contribution rates and shall be determined at the time of documentation of, and incorporated into, a Voluntary Planning Agreement (VPA) between the applicant and Tweed Shire Council. The VPA shall be finalised prior to the granting of development consent or major project approval for any part or precinct of the development approved by way of Concept Plan No. 08-0234 which creates residential lots or dwellings.

Should it be agreed that some sports facilities can be located at the currently proposed site, the VPA will require the applicant to dedicate and embellish on its land a component of the required 4.42 hectares no earlier than when the Spine Road construction is completed, or contributions in lieu to be paid on a pro-rata basis per precinct at the time of sealing of title plans by council for that precinct".

If any sports facilities are to be developed on the currently proposed land, the road connection between the sports fields and the development must be provided at the same time.

Structured open space and associated infrastructure is to be dedicated to Council and should not remain under private ownership as community title.

Casual Open Space

3.47 hectares are required for casual open space as calculated above. The developer has submitted drawings showing location, dimensions and slopes of the open space required to be developed, and a total area of 3.24 ha that meets Councils subdivision guidelines. This leaves a deficit of around 2,300m².

These drawings, prepared by ML design and dated 22/9/2009 are:

- A-MP-01-30(B) Parks Key Plan
- A-MP-01-31(B) Local Park No. 1

- A-MP-01-32(B) Local Park No. 2
- A-MP-01-33(B) Local Park No. 3
- A-MP-01-34(B) Local Park No. 4
- A-MP-01-35(B) Local Park Nos. 5 & 6
- A-MP-01-36(A) Local Park Nos. 5 - Amphitheatre section detail

Note the area for Local Park no. 3 has been calculated at 1.03 hectares however it includes the area of an existing dam. Such water bodies are not included in open space calculations and the area for Local Park No. 3 should be amended accordingly.

These drawings are the basis for assessing Casual Open Space to be provided, and must be included in any further submissions. The separate Landscape Open Space Concept Report (MP08-0234) divides open space into categories such as 'Urban Open Space, Local Open Space and Community Open Space' which have no meaning for Council and only confuse assessment. Separating the open space into land that meets Councils casual open space, and remaining open space that does not meet these requirements is more appropriate.

Resolution to the question of the amount of casual open space required must occur before the proposed casual open space can be agreed to. Note that an additional 2.86ha of casual open space is proposed that does not meet the subdivision guidelines, and much of this adjoins land that does meet subdivision guidelines. A reanalysis of the proposed areas is expected to show the development can meet Council requirements.

All casual open space is proposed to remain in private ownership as part of the developments overall community title. The question of whether this open space must comply with the Councils Subdivision Manual (Tweed DCP, Section A5) is unresolved at this time. RSU's position is it should comply as these standards have been developed to ensure maximum benefit for the community.

Being community title land, Council will have no responsibility, now or in the future, for managing the casual open space. This must be clearly defined in any development consent.

Appropriate controls must be in place to ensure full community access to the casual open space provided. It is essential that the casual open space not be altered in the future to reduce its capacity to provide full access and use for the general community.

A potential problem is noted with public access to casual open space that is managed by the development's body corporate, or similar. Those contributing to maintenance through body corporate fees may expect a different type of use than those visitors from outside the area.

The development is in a steep and hilly location. It is acknowledged the developer has attempted to identify the most acceptable casual open space outcomes given the constraints of the land. It is also noted that the area of open space that is acceptable still requires some negotiation regarding an additional 2300m². Site constraints mean that some negotiation may need to occur over how the criteria for acceptable casual open space is applied.

Bushland, Natural Vegetation and Bushfire Control

A large amount of bushland is proposed to be retained on the site. Negotiation over this land is to be undertaken in consultation with the Natural Resource Management Unit.

Within the Bushfire Assessment (Rise MP08-0234) there is a statement regarding 'APZ's on external land' (Page 15), which are to be further defined in a 'Detailed Bushfire Management Plan'. No agreement will be provided by RSU for APZs located on land to be managed by Council without detailed plans being provided for assessment.

Environmental Health

Water Recycling:

It is noted that **Rise** is to be developed as a Community Title Scheme. It is proposed that the potable water supply for the development will be delivered by Council's reticulated water supply with council being responsible for the potable water supply operation and maintenance. It is also proposed to utilise a community owned stormwater harvesting system to be managed under the proposed Community Title Scheme.

This system will involve the harvesting of stormwater runoff from roofs, roads, open space areas and specific wetland areas of community lands to offset the demand on the reticulated water supply. This stormwater recycling system will **not** be used for the supply of potable water but instead will be used for non potable uses such as irrigation and toilet flushing.

An Integrated Water Cycle Management Plan (IWCMP) has been prepared by Gilbert and Sutherland dated April 2009. Under this Plan, stormwater from the areas described above will be collected in community tanks situated in the various Precincts proposed for the development and then conveyed to a treatment system which it is envisaged will treat the stormwater to a level acceptable for Primary contact purposes. The treated stormwater will then be conveyed to a community reservoir for further distribution throughout the development.

The (IWCMP) does not provide the detailed designs for the proposed system instead advising that detailed design would be provided to Council with future development applications.

The Environmental Protection and Heritage Council, The Natural Resource Management Ministerial Council and the National Health and Medical Research Council have developed guidelines for the safe use of recycled water. Some of these Guidelines, in particular the "Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 2): Stormwater Harvesting and Reuse July 2009 are considered relevant to the proposed development and need to be considered in any stormwater harvesting and reuse proposal.

The applicants attention is drawn to the relevant guidelines prepared by the Environmental Protection and Heritage Council, the Natural Resource Management Ministerial Council and the National Health and Medical Research Council in particular the "Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 2): Stormwater Harvesting and Reuse" July 2009 for reference in the proposed integrated water cycle

management system for the development to be operated under the Community Title Scheme.

Contamination:

A number of contaminated land assessments have been carried out over various areas of the site since 1997. A Contamination Assessment Summary provided by Gilbert and Sutherland dated April 2009 has reviewed the previous contamination investigations and contains the following recommendations in general (*It is noted that no fill material will be imported to the site*):

1. Additional investigations to determine the spatial extent of Organochlorine (OC) pesticides used on the golf course greens in the past needs to be conducted. It is proposed that such investigation is carried out as a component of each Development Application prepared for each Precinct or part of Precinct of the **Rise** project.
2. Any proposal to remove and place elsewhere on site any biosolids from the biosolids pond(s) associated with the existing Sewage Treatment Plant on the site will need to involve the lab analyses of the material for bacterial antigens and the development of appropriate Safe Work Method Statements to protect persons handling the material. It is proposed that this detail can be resolved during the works application process for the relevant **Rise** Precinct.
3. Investigations of the out buildings associated with the existing Country Club identify Dieldrin concentrations that require further investigation. Further testing for OC pesticides beneath each concrete slab is to be carried out on the Country Club and associated out buildings in accordance with Council's Pre-demolition Testing Guidelines as the demolition works proceed. If necessary a Remediation Action Plan shall be prepared and submitted for approval prior to the demolition of the concrete slabs.

Any future Project Applications shall be submitted with the necessary information that addresses the recommendations as contained within the Contamination Assessment Summary provided by Gilbert and Sutherland dated April 2009 together with the provision for approval of all relevant assessment reports and any necessary Remediation Action Plans (RAP's). Following the conclusion of all contamination investigations and any necessary Remediation Works, the Contaminated Land Consultant shall provide a clear statement as to whether the land subject of the Project Application is suitable for the proposed use.

Cattle Dip Sites

The nearest cattle tick dip site to the proposed **Rise** Development is Charles Dip which is located on the Northern side of McAllisters Rd approximately 65m and down slope of the development site. The NSW Department of Primary Industries Cattle dip site locator indicates that Charles dip is decommissioned and the dip bath has been capped. It is therefore unlikely that the dip will impact on the proposed development. Keys Dip is located approximately 107m for the boundary of Lot 2 DP 867486. Keys dip is listed as being demolished with the contents of the dip bath is indicated as stones.

Acid Sulfate Soils

According to the Contamination Assessment Summary provided by Gilbert and Sutherland dated April 2009, ASS are not likely to be encountered over the site due to its elevation with the exception of the area associated with the proposed Sports Park on the low lying section of the site near Cobaki Rd. The Gilbert and Sutherland report recommends that an ASS assessment is carried out on this site should disturbance of the soils in this area occur.

Any future Project Applications shall be submitted with the necessary information that addresses the recommendations as contained within the Contamination Assessment Summary provided by Gilbert and Sutherland dated April 2009 in respect to the provision of an Acid Sulfate Soils assessment of the site of the proposed Sports Park in the event that any disturbance of the soils in this location is to occur as a result of any future Project Application for this area. Any Acid Sulfate Soils assessment shall be carried out to the satisfaction of the relevant consent authority.

Private Sewage System:

It is noted that a small privately owned sewage system is proposed to be installed to service the proposed private school in Precinct I. This system will pump effluent to the public sewer. No details are provided in respect to this system however it is likely that such a system will require an Approval to Install and operate under the provisions of Section 68 of the Local Government Act 1993.

Details in respect to this system will likely be supplied in conjunction with future development applications for Precinct I. Appropriate conditions can be applied to any future development application at that time.

General:

It is noted that the application relates to the concept plan for **Rise** and that the applicant and respective consultants have advised that further detailed information relating to various aspects and Precincts of the proposed development will be provided at the time of the submission of future development applications. Therefore an opportunity will exist for the relevant consent authority to consider future development applications and apply relevant conditions to these consents.

The following conditions (Statements of Commitments) are recommended in respect to the submitted Concept Plan.

- Any future Project Applications shall be submitted with the necessary information that addresses the recommendations as contained within the Contamination Assessment Summary provided by Gilbert and Sutherland dated April 2009 together with the provision for approval of all relevant assessment reports and any necessary Remediation Action Plans (RAP's). Following the conclusion of all contamination investigations and any necessary Remediation Works, the Contaminated Land Consultant shall provide a clear statement as to whether the land subject of the Project Application is suitable for the proposed use.
- Any future Project Applications shall be submitted with the necessary information that addresses the recommendations as contained within the Contamination

Assessment Summary provided by Gilbert and Sutherland dated April 2009 in respect to the provision of an Acid Sulfate Soils assessment of the site of the proposed Sports Park in the event that any disturbance of the soils in this location is to occur as a result of any future Project Application for this area. Any Acid Sulfate Soils assessment shall be carried out to the satisfaction of the relevant consent authority.

Property and Legal Review

Both Lot 4 in DP 822786 and Lot 1 in DP 1012180 have been closed and transferred to Terranora Group Management (TGM). Lot 1 has been consolidated with Lot 5 in DP 822786 to create Lot 33 in DP 1085109, one of the parcels listed as forming part of the development. Lot 4 appears to still be held separately, and it too is listed as part of the development.

In this regard, any off set for road dedication by TGM will not occur.

Annexure 31 contains correspondence between the Dept of Lands dated 20 April 2009 and TGM (via Bolsters) and Stacks, the solicitors for Kirra Investments Pty Ltd (Kirra) and Monowai Pty Ltd (Monowai) . Kirra and Monowai jointly own the land formerly owned by Teitzel to the north of a Crown Road, Lot 2 DP 555026.

Stacks letter to the Dept of Lands, dated 7 April 2009, advises them that TGM and Kirra and Monowai will jointly close and purchase the road reserve, where the road reserve will be split longitudinally into two lots.

The letter from the Dept of Lands to TGM, dated 20 April 2009, indicates an agreement to sell the Crown road reserve at the price of \$37,500.

The draft Heads of Agreement provides at Item 2 that Council will pursue the closure of the Crown road reserve as well as the Old Coach Road reserve.

TGM intend to set off the transfer of the closed road reserves against the road dedications as a concurrent road/closure process. This will not be able to occur as the closure of the Crown road reserve will proceed as a singular process under Division 1 of Part 4 of the Roads Act.

The closure of the Old Coach Road has already been effected, the road has been closed and Council holds the title for the closed road parcel as Lot 1 in DP 1033811.

TGM envisage a concurrent road closure/road opening process pursuant to Division 3 of Part 4 of the Roads Act. These are two separate processes, the concurrent process is a process of acquisition, to be undertaken by Council, of land to be acquired for road and the acquisition of road, which effects the closure of the road.

The draft Heads of Agreement envisages another opportunity to set off the road closures against the road closures.

This cannot occur as one road is Crown road yet to be closed, and the other road closure has already been effected.

Council will not consider making an application to acquire land for the proposed road corridor between the Cobaki Parkway from Piggabeen Road to the Boyd Street overpass as it would be viewed by the Dept of Local Government as being outside the parameters of a public purpose, as it could be viewed as supporting the development notwithstanding that the proposed road corridor fits within any road network strategy, and that the costs of acquisition are to be borne by TGM.

Closed Road Parcels

It should also be noted that Council also holds two other closed road parcels in Council ownership, Lot 1 in DP1033810 and Lot 1 in DP 1033807. Council provided its consent for these parcels to be included in the development application, please see attachment 30 of the application.

These roads were formerly Conmurra Avenue (Lot 1 in DP 1033810) and Marana Street (Lot 1 in DP 1033807) approved and closed as part of consent 96/519 for an integrated tourist resort.

Development Engineering (including variations)

Geotechnical Issues/ Earthworks/ Landforming

The Geotechnical investigations undertaken by Border-Tech and Gilbert & Sutherland concluded that there are no geological conditions evident on the site which would indicate that the proposed development cannot be satisfactorily achieved.

Specific detailed Geotechnical investigations will be required for each component or precinct of the development at the time of Development Application.

No evidence of active land slippage was identified on the subject site during investigations.

Subsurface drainage will be required at the interface zone of various geological formations and cut off drains will be required where cut batters are to be located.

Subject to detailed design there may be excess cut of approximately 237,000 cubic metres. Therefore no earthwork materials will be required to be imported to the site, but rather material may need to be transported off the site which would generate heavy haulage contributions. Any future applications would need to demonstrate the heavy haulage routes and mechanisms to minimise impact on adjoining properties.

The application has provided documentation showing that the BEW will require approx 6.27% of the development footprint to have cut/fill depths exceeding 5 metres. Council's DCP – D6 limits this to 10%, which complies.

Cul-de-sacs

The EAR states that approximately 132 lots will front cul-de-sacs out of a total of approximately 846 residential "dwellings". This equates to 15.6%. Council's DCP - Section A5 nominates a limit of 15%. This minor numerical variation can be justified, given the difficult terrain, the plans' objective of minimising landform changes and because the plan is framed around a Community Title Subdivision.

Council's DCP - Section A5 specifies that the maximum cul-de-sac length should be 100m, servicing no more than 12 dwellings, however flexibility is given where the development site is constrained by landform alteration limits. In these circumstances the maximum length may be increased to 200m and 24 dwellings. A significant number of proposed roads do not comply, even with the more accommodating requirement.

The applicant's argues that a variation should be given as:

- the development is trying to minimise landform changes;
- the development is a Community Title Subdivision.

Council's DCP – A5 already gives a variation in regards to topography constraints by raising the allowable length and number of homes allowed from 100m and 12 houses to 200m and 24 houses as stated above.

Cul-de-sac's reduce connectivity and are normally acceptable for a minimum number of properties.

The applicant should further investigate mechanisms for achieving compliance which may include larger allotments.

Footpaths/Cycleways

A community facilities plan has been submitted showing proposed pedestrian walkways, cycle and buggy paths

Road Type B2 should also provide one 1.2m footpath on one side of the road.

If Precinct J is retained the link between Precinct J and the Spine Road (to the west) should be limited to pedestrians/cyclists only and emergency vehicles.

It would also be desirable to have a cycleway to the proposed sports fields (if they advance) and such options should be investigated (specifically in regard to grade).

Parking/Manoeuvrability

The proposal appears to comply with the relevant provisions of Council's DCP Section A2 – *Site Access and parking Code*, with the exception of the Community Hall, the Community Club Building and the Community Lap Pool.

The Applicant justifies this shortfall however such analysis should be undertaken at detailed assessment stage based on the nature of the facilities.

Bushfire Prone Land

The site is mapped as bushfire prone land and therefore the provisions of Planning for Bushfire Protection 2006 will apply. Perimeter roads are generally proposed to the significant hazard areas as a means of providing the necessary asset protection zone (APZ). In addition, access is proposed via Cobaki Road as well as Marana Street to provide evacuation routes.

The application notes that external easements will need to be required to secure required APZs. The proposed layout does not accommodate these APZs wholly within the *RISE* development site. These need to be accommodated on the subject site as Council can not impose such restrictions on another land owner.

The application does however state that if, at the time of the individual Development Applications for specific precincts in *RISE*, the creation of easements on adjoining property is not possible, then the location of the proposed buildings may need to be re-evaluated. This will be the responsibility of the developer to determine at a later stage.

Variations to Council's Controls

The applicant has requested many possible future variations that may be required. Many of the requested variations seek blanket exemptions for future applications. Yet such exemptions may not even be necessary.

It is generally recommended that such blanket exemptions be denied at this initial concept stage and each variation required in the future be addressed on its merits having regard to the sites constraints.

Each of the proposed variations are discussed in the below table:

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| Tweed Shire Council Development Control Plan Section A5 Subdivision Manual | To delete the statement to "provide public transport and local community facilities operating from initial stage of development" as referenced in Section A5.2.2 <i>Tweed Shire 2000+ Strategic Plan</i> . | Ideally such community facilities would be provided at initial stages. Servicing from the local bus company is at the discretion of the private bus company, however transport can be encouraged by ensuring the road widths cater for the buses from the outset. Some Community Facilities are proposed by the applicant within the private community title scheme. It is recommended that the applicant address the <i>Tweed Shire Community Facilities Plan 2007</i> in |

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| | | any Preferred Project and justify why a Voluntary Panning Agreement shouldn't be entered into to satisfactorily address community facilities. |
| | To delete the statements that "Ridgelines are preserved without visual intrusion of unsightly dwellings and excessive benching" and "Housing and other forms of urban development are designed to integrate with natural features, not dominate or remove them". | The proposed height variations do not support the strategic principals applying to hilltop developments within the Tweed Shire. It is not recommended to grant a variation to these guiding documents. |
| | To vary the 1.2m retaining wall limit between residential property boundaries to 3.0m. | This variation is not supported as it will result in terraced lots being created, which is against the intention of the 1.2m limit. (Ref Table A5-3 in Tweed DCP Section A5). |
| | To vary the 1.8m (above street level) and 2.4m (below street level) limit for retaining to 3.0m, with no limit on the Spine Road. | It is recommended to support a variation to allow retaining walls up to 3.0m for all roads. The "no limit" request for the Spine Road should not be supported. |
| | To limit A5.4.10 (Movement Network) to only comply to Public Roads within the development. | This variation is not supported. <i>Section A5.6.1 General / Subdivisions Under the Community Titles Act / Design Guidelines and Development Standards provides the appropriate flexibility for Community Title Developments, without the need to vary Section A5.4.10. "The design guidelines and development standards for community title infrastructure are generally the same as those for conventional subdivisions except that Council will consider proposals that justify departure from standards for road and verge widths. Standards for street and</i> |

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| | <p>To delete specific requirements of A5.4.11 Open Space Network.</p> <p>To delete specific requirements of A5.4.12 Lot Layout.</p> | <p><i>lot layout are the same as for conventional subdivisions.”</i></p> <p>This variation is not supported.</p> <p><i>Section A5.6.1 General / Subdivisions Under the Community Titles Act / Design Guidelines and Development Standards provides the appropriate flexibility for Community Title Developments, without the need to vary Section A5.4.11. It states that “Council will consider proposals to vary local sports field provision that can be justified by demand projections. The community subdivision must provide internal and perimeter public open space links that provide access to foreshores and special places and are consistent with and provide continuity for the outside urban and open space structure.”</i></p> <p>Although Section A5.6.1 <i>General / Subdivisions Under the Community Titles Act / Design Guidelines and Development Standards</i> states that “No change” should be provided to Council DCP Section A5 for Community Title Subdivisions in regards to Lot Layout, it is considered that the size of this development does justify some variations. Such variations could be supported provided appropriate details on what variations are requested and they are suitably justified with sound planning justification. This would need to be done on a case</p> |

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| | | by case basis at each stage of development. |
| | To delete A5.5 in its entirety "Rural Subdivision Guidelines" | This section is not relevant to this development, however, it need not be deleted but rather any sections of no relevance will obviously not apply. |
| | To insert "and public" into A5.6.1 <i>General / Subdivisions Under the Community Titles Act / General</i> such that it will read "This form of subdivision generally includes communally owned property and infrastructure. Both development consent and issue of a subdivision certificate are required for community title subdivisions and a construction certificate is required for subdivision works. Subdivision works will include internal community owned and public infrastructure and external works and/or connections." | This variation can be accepted if the applicant adopts the recommended changes for water and sewer infrastructure as detailed in this letter. |
| | <p>Proposed changes in regards to Section A5.6.1 <i>General / Subdivisions Under the Community Titles Act / Design Guidelines and Development Standards</i></p> <p>(i) Landforming – as detailed above.</p> <p>(ii) Movement Network – as above</p> <p>(iii) Lot layout – as above</p> <p>(iv) Open Space Network – as above</p> <p>(v) Infrastructure.</p> <p>(a) Water and Sewer – It is requested that all reference to community responsibility be removed.</p> | <p>(i) Proposed variation should not be supported as detailed above.</p> <p>(ii) Proposed variation should not be supported as detailed above.</p> <p>(iii) Proposed variation should not be supported as it will be assessed on its merits at each stage of development.</p> <p>(iv) This variation is not supported as detailed above.</p> <p>(v) (a) This variation can be accepted if the applicant adopts the recommended changes for water and sewer infrastructure as detailed in this letter.</p> |
| | | This is a matter for |

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| | To delete Appendix E Buffers. | detailed assessment at the time of future applications. Any variation needs to be justified based on the uses undertaken on adjoining property. |
| Tweed Shire Council's Development Design Specification D1 – Road Design | (D1.10 – Table D1.6) - Proposes a desirable max grade of 16% and an absolute max grade of 25% for private road within the development. | This variation is definitely not supported by Council. Although private, these roads will not operate similar to a driveway and so driveway standards should not apply. Council's DCP Section A5 – Subdivision Manual supports the variation of road and verge widths only. Not grades. |
| | (D1.10.2) - Proposes to delete the requirement that longitudinal grade through intersections does not exceed 4%. | This variation is definitely not supported by Council. The functionality of the road will be compromised should it be supported. |
| | (D1.11.2(c) D1.11.3(b)&(c)) - proposes to delete vertical curve limitations for private roads within the subdivision. | This variation is definitely not supported by Council. The geometrical integrity of the road network needs to be maintained, irrespective of whether it is a private or public road. |
| | (D1.14) - Proposes to delete this section and reference the sections provided in the Major Projects application. | This proposal could be accepted subject to conditions. |
| | (D1.15 Table D1.8 & notes) - Proposes to delete this requirement for the private roads, but apply it to the Public Roads only. | This is not supported. As Council will be taking over the water and sewer infrastructure, Council will require the infrastructure to be located within the standard corridors. |
| | (D1.16) - Proposes to delete the requirements for footways and cycleways under D1.16 for all Private Roads within the development | Walkable communities should be encouraged whether this is for private or public communities. Point 4 (relating to grades and crossfall) and Point 10 |

| <u>THE INSTRUMENT</u> | <u>THE REQUESTED VARIATION</u> | <u>TWEED SHIRE COUNCIL COMMENT</u> |
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| | | (requiring a Section 138) application should still apply. Furthermore, all of D1.16 should most definitely remain for the public roads within the development. |
| | (D1.17) - Proposes to delete the requirements of this section (Urban Intersection) for all Private Roads within the development. | This is not supported by Council. |
| | (D1.18 & D1.19) - Proposes to delete the requirements of this section (Roundabouts and Traffic Calming) for all Private Roads within the development. | This is not supported by Council. |
| | (D1.20.1 & D1.20.2) – Proposes to delete the requirement for parking for public roads and replace it with reference to the Architects plans. | This does not need to be determined at this concept stage. Such decisions can be made at the individual application stage with justifications for the variations. |
| | (D1.21) - Proposes to limit the requirement for Bus Routes to the Public Roads only within the development. | This appears reasonable and could be supported by Council. |
| | (D1.22) - Proposes to remove the requirement for driveways to be constructed to every lot at time of land subdivision. | This appears reasonable and could be supported by Council. |
| | (D1.24 & D1.34) - Proposes to delete references to Rural Development Standards as none will be applicable to this development. | This section is not relevant to this development, however, it need not be deleted but rather any sections of no relevance will obviously not apply. |
| Council's Development Design Specification D6 – Site Regrading: | (D6.05.2(i) Dp1) - Proposes the deletion of the dot point which specifies that “topographical features that are significant to the character of the site or locality”. | The proposed height variations do not support the strategic principals applying to hilltop developments within the Tweed Shire. It is not recommended to grant a variation to these guiding documents. |
| | (D6.05.4 Dp2&3) - Proposes to delete these points referring to Shape surface criteria. | Council does not support such a deletion. The development needs to remain restricted to the |

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| | | requirements of D6. |
| | (D6.05.4 – Note 1) - Proposes to delete the requirement to limit retaining walls at boundaries to 1.2m and increase this limit to 3.0m. | As stated earlier, this is not supported. |
| | (D6.05.6(b)(c) Table 1) - Proposes to increase the retaining wall limit to 3.0m. | As stated earlier, this is not supported. |
| | (D6.07.2) - Proposes to amend this requirement to allow cleared material to be used as mulch. | This should be supported. |
| | (D6.15) - Proposes to delete this requirement, which states that “Where site regrading is to be staged, each stage is required to individually conform with the requirements of this specification. In this regard interfaces with future subdivision stages will be treated as interfaces with adjoining land in different ownership.” | There would be opportunity for this aspect to be assessed on its merits upon receipt of the earthworks application. |
| Tweed Shire Council's Development Design Specification D9 – Cycleway and Pedestrian Pathway Design | (D9.10.1 Table D9.1) - Proposes to delete minimum design standards. | The private development does not justify the deletion of such requirements. Appropriate standards need to be maintained for vehicular and pedestrian users of the development. |
| | (D9.12) - Proposes deletion of the requirement that the pathways have to be concrete for the private roads. | A suitable alternative (in similar standard) could be justified. |
| Tweed Shire Council's Development Design Specification D11 – Water Supply: | (D11.06.1) - Proposes to amend the specification to reference potable / reuse water demands. | This would need to be consistent with Tweed Shire Council's specifications for taking responsibility of the water and sewer infrastructure. |
| | (D11.07(a)) - Proposes to delete the reference where water mains are to be laid in Community Land. | As Council will be maintaining these mains, it is essential that the mains remain generally at the standard alignment within the road verge to enable access. |
| | (D11.07.2) - Proposes to delete the reference requiring 3m easements for public infrastructure within private property and replace it with Statutory Easements. | This is not supported by Council and would result in Council denying the responsibility for water and sewer infrastructure. |
| Council's | (D12.06.2) - Proposes to amend the specified design | Sewer loadings may be |

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| Development Design Specification D12 – Sewerage System: | loading for Community Title developments from 240l/EP/day to 180 l/EP/day. | based upon 180L/ep/d provided design flows are estimated in accordance with the WSA 02 – 2002 Sewerage Code of Australia methodology that includes allowance for ground water infiltration and rain derived inflow and infiltration in addition to the 180L/ep/d (U & I Report Part B 2 Proposed Variations to DCP D12 Item 1). |
| | (D12.07.1(a)&(b)) - Proposes to delete the reference where sewer mains are to be laid in Community Land. | As Council will be maintaining these mains, it is requested that the mains remain generally at the standard alignment as per the specification. |
| | (D12.07.1(c)&D12.07.4) - Proposes to delete the reference for location along rear boundaries and the requirement for 3m easements for public infrastructure within private property and replace it with Statutory Easements. | This should not be supported. Council should enforce that standard easements are provided such that Council can enforce appropriate easement widths and regulations such as “no structures to be located within the easement.” etc |
| | (D12.10.9) - Proposes to delete the requirement that “no property connection sewer is to be more than 10m in length.” | Property connection sewers should comply with the requirements of D12 and not exceed 10m length. Where necessary, the sewer shall be appropriately extended. |
| | (D12.30) - Proposes to delete the design requirements for Trunk Sewers. | <p>As Council will be taking over sewer mains, the standard specifications should be enforced i.e.</p> <ul style="list-style-type: none"> - A sewer greater than 3m in depth or greater than 300 millimetres in diameter shall be designated as “trunk” sewers. - House connection shall not be permitted to “trunk” sewers. Side collection lines shall be |

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| | | installed - In general sewers deeper than 5m will not be permitted. Lifting stations to minimise depth are preferred. |

The Process

Should the Department of Planning approve this concept plan (with conditions) please confirm that future applications will be lodged with Council under Part 4 of the Environmental Planning & Assessment Act.

It is envisaged that this would include the initial Development Applications for:

- The construction of the Spine Road;
- The construction of all internal Roads;
- The initial subdivision as detailed within the concept plan.

Council would appreciate the opportunity to discuss these issues with the Department of Planning and the Applicant to ensure that this area is planned effectively.

Should you wish to discuss any of the comments and recommendations herein, please do not hesitate to contact Denise Galle on (02) 6670 2459.

Yours faithfully

Vince Connell
 Director Planning & Regulation

Director-General's Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

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| Major Project No. | MP 08_0234 |
| Project | Concept Plan for Rise Estate comprising of a residential, educational, retirement, retail and recreational development. |
| Site | Rise Estate, Bilambil Heights – Marana Street Bilambil Heights. |
| Proponent | Terranora Group Management |
| Date of Issue | 6 February 2009 |
| Date of Expiration | If the environmental assessment is not exhibited within 2 years after this date, the applicant must consult further with the Director-General in relation to the preparation of the environmental assessment. |
| General Requirements | <p>The Environmental Assessment (EA) must include</p> <ol style="list-style-type: none"> (1) An executive summary; (2) A detailed description of the project including the: <ol style="list-style-type: none"> (a) strategic justification for the project; (b) alternatives considered; and (c) various components and stages of the project in detail (and should include infrastructure staging); (3) A consideration of the following with any variations to be justified: <ol style="list-style-type: none"> (a) all relevant State Environmental Planning Policies, (b) all applicable planning instruments, including relevant Council LEP and DCP instruments, and (c) relevant legislation and policies, including the <i>Far North Coast Regional Strategy</i>. (4) A draft Statement of Commitments, outlining commitments to the project's management, mitigation and monitoring measures with a clear identification of who is responsible for these measures; (5) A detailed conclusion justifying the project, taking into consideration the environmental impacts of the proposal, mitigation measures to address these impacts, the cumulative impacts of the proposal, the suitability of the site, and whether or not the project is in the public interest; (6) Identify the development contributions applicable to the site and, if relevant, and any public benefits to be provided with the development, consistent with any development contributions plans prepared to date; (7) A signed statement from the author of the EA certifying that the information contained in the report is neither false nor misleading; and (8) A report from a quantity surveyor identifying the correct capital investment value for the concept plan. |
| Key Assessment Requirements | <p>The Environmental Assessment must address the following key issues:</p> <ol style="list-style-type: none"> 1. Urban Design and Built Form <ol style="list-style-type: none"> (1) Demonstrate that the type, bulk, scale, size and design quality controls for future development, including road layouts, building style, building heights, and landscaping on the site will be able to respond to the location and sub-region appropriately. (2) Provide suggested new controls and urban design guidelines to regulate the development, including development controls and management arrangements. (3) Undertake a site analysis that identifies the relevant natural and built environmental features. The site analysis should form the basis for justifying the configuration of the development of the land and the mix of land uses. (4) Visual analysis of the proposal, including but not limited to projected view analysis, photomontages (local and context) with particular attention to development on the hilltop. (5) Strategic context and justification in terms of market demand including analysis of design with regard to the target market of proposed product. (6) Proposed staging and timing of the development. |

2. Biodiversity and Threatened Species

- (1) Address the impact of the development on existing native flora and fauna and their habitats, including identified threatened species, having regard to the Threatened Species Assessment Guidelines and recommend offset measures to avoid or mitigate impacts on threatened species and their habitat.
- (2) Address the Management of threatened species and natural open space areas.
- (3) Assess impacts of native vegetation clearing and provide details of any offset strategy or suitable mitigation measures.
- (4) Outline the management arrangements for ongoing control of weeds and pests.
- (5) Discuss as relevant the development of ecological corridors to link flora and fauna corridors both on and adjoining the site, as well as ecological buffers between land uses such as asset protection zones.
- (6) Assess any potential impact on surrounding waterways in terms of water quality and aquatic ecosystems. This should include but not be limited to:
 - (a) Onsite pollution such as accidental spills and sewer overflows;
 - (b) Stormwater management and treatment;
 - (c) Risks such as weed invasion, encroachment and litter; and
 - (d) Vegetated buffer zones.
- (7) Detailed plan for the control of environmental weeds and pest animal species.

3. Traffic and Transport

- (1) Prepare a Traffic Management Plan that considers the traffic constraints of the site and surrounding locality
- (2) Prepare a Traffic Study in accordance with RTA's *Guide Traffic Generating Developments* that satisfactorily address:
 - (a) Impacts of the proposal on regional and local road networks;
 - (b) Opportunities to minimise traffic on sensitive road frontages;
 - (c) Proposed access and circulation;
 - (d) Efficiency of emergency vehicle access/egress;
 - (e) Proposed access from the wider road network as well the opportunities and constraints of alternative vehicular access points;
 - (f) Proposed pedestrian and cycle access within and to the site that connects to all relevant transport services and key off-site locations and measures to promote the use of these;
 - (g) Consideration of the capacity, limitations and constraints of the road network including the Kennedy Drive and Pacific Highway interchange and the Cobaki Parkway;
 - (h) Consideration of traffic implications from a wider network perspective including history of current developer agreements for the provision and timing of roadworks and their relationship with the development of Rise Estate.
- (2) Identify package of public transport measures to support the proposed development and suggest appropriate funding mechanisms.
- (3) Provide a road network plan identifying the proposed road hierarchy including cycleways, footpaths and car parking. Plan should identify public, private roads and typical cross sections and long sections.

4. Heritage

- (1) Identify and assess the impacts of the proposal on any item of heritage significance.
- (2) The EA is to address the requirements set out in the draft *"Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation"*.

5. Utilities and Infrastructure

- (1) Prepare a utility and infrastructure servicing report and plan for the site that includes (but is not limited to):
 - (a) Identification and assessment of the capacity of existing utility and infrastructure servicing the site,
 - (b) Identification and assessment of all necessary augmentation works to service the site and whether these works can sustain this and other development foreshadowed for the Bilambil release area,

- (c) How infrastructure will be managed by each stage of development,
- (2) Preparation of a Concept Stormwater Management Plan that outlines general measures for stormwater and effluent management in relation to climate, topography, soil types and local geology and identify potential risk issues. Measures to be incorporated on site, include (but not limited to) on site stormwater detention, water sensitive urban design measures, the impact on the quality of surface water and groundwater.
 - (3) Identify the proposed sources of water supply for the development including any reliance on groundwater or local catchments including addressing water sustainability and efficiency principles
 - (4) Identify any risks of groundwater depletion or water table rise
- 6. Ecologically Sustainable Development** – Demonstrate how the development will commit to ESD principles in design, construction and ongoing operation phases.
- 7. Open Space and Community Facilities** – Details of the proposed open space and community facilities and the ongoing maintenance of open space and such facilities. Provide details of any arrangements with Council for public use of such facilities.
- 8. Ownership and Management** – Identify the proposed ownership and titling arrangements for each of the proposed land uses.
- 9. Bushfire**
- (1) Demonstrate compliance with the current version of *Planning for Bush Fire Protection* and *Australian Standard 3959 (Building in Bush Fire Prone Areas)*. The EA is to identify the ongoing management arrangements of any proposed APZs.
 - (2) Provide a plan of management for any areas of hazard including maintenance of APZs.
- 10. Flooding**
- Assessment of any flood risk for the site should be conducted in accordance with the NSW Government's Flood Prone Land Policy as set out in the Floodplain Development Manual, 2005.
- 11. Planning Agreements and/or Developer Contributions**
- The environmental assessment should identify and address the additional demand created by the development on existing public facilities. The likely scope of any planning agreement and/or developer contributions between the proponent, Council and other agencies are to be detailed.
- 12. Site preparation works**
- (1) Provide a report that includes (but is not limited to):
 - (a) a detailed survey showing existing and proposed levels and proposed quantities of cut and fill necessary for site preparation works, and
 - (b) details on the source of fill including types of materials and their source.
 - (2) A geotechnical study to identify any constraints on the site including slope analysis.
 - (3) Provide a preliminary Erosion and Sediment Control Plan.
 - (4) Provide a contaminated land report that identifies and assesses any land contamination.
- 13. Subdivision**
- (1) Provide proposed plans of subdivision that identify all covenants, easements and notations proposed for each land title and, if relevant, how the subdivision is to be staged.
 - (2) Provide a staging Plan that identifies the staging of the development and demonstrates how each precinct will be developed in a coordinated manner
 - (3) Outline the long-term management and maintenance of any areas of open space or conservation, including the ownership and control, management and maintenance of funding public access revegetation and rehabilitation works and bushfire management.

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| | <p>15. Agriculture</p> <p>(1) Consider potential impacts of the proposal on existing agriculture in the area.</p> <p>(2) Monitoring of the quality and volumes of any discharged water to ensure no reduction in quality and quantity to downstream agricultural users of the water.</p> <p>(3) Demonstrate consistency with requirements of the Northern Rivers Catchment Action Plan (http://www.northern.cma.nsw.gov.au/region_catchment_action_plan.php).</p> |
| Consultation Requirements | <p>An appropriate and justified level of consultation should be undertaken with the following relevant parties during the preparation of the environmental assessment, having regard to any previous consultation:</p> <p>a) <i>Agencies and other authorities:</i></p> <ul style="list-style-type: none"> • Tweed Shire Council; • NSW Department of Water and Energy; • NSW Department of Primary Industries; • NSW Department of Environment and Climate Change; • NSW Roads and Traffic Authority; • NSW Ministry of Transport; • Northern River Catchment Management Authority; • NSW Emergency Service agencies, namely NSW Rural Fire Service, NSW Police Department, the Ambulance Service of NSW, the State Emergency Service; and • All utility providers. <p>b) <i>Adjoining Landowners</i></p> <p>Consultation with adjoining landowners is to be undertaken to discuss and address, where appropriate, the cumulative impact of new development upon the existing township including potential impacts upon existing and proposed regional and local infrastructure.</p> <p>c) <i>Public</i></p> <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment.</p> |
| Test of Adequacy | <p>If the Director-General considers that the Environmental Assessment does not adequately address the Environmental Assessment Requirements, the Director-General may require the proponent to submit a revised Environmental Assessment to address the matters notified to the proponent.</p> <p>The Director-General may modify these requirements by further notice to the proponent.</p> |
| Deemed refusal period | 120 days (see Clause 8E of the Environmental planning and Assessment Regulation) |
| Landowner's Consent | Landowner's consent is to be provided within the EA in accordance with clause 8F of the Environmental Planning & Assessment Regulation 2000. |
| Application Fee Information | The application fee is based on Capital Investment Value of the project as defined in the Major Projects SEPP and as set out in Clause 8H of the Environmental Planning and Assessment Regulation 2000. To verify the cost of works for this project you are requested to submit a Quantity Surveyor's report for the project. |
| Documents to be submitted | <p>Once the draft EA has been submitted and determined to be adequate by the Department the applicant should submit:</p> <ul style="list-style-type: none"> • 10 hard copies of the environmental assessment report & 10 sets of the architectural plans; and • 10 copies of the environmental assessment report and plans on CD-ROM (in PDF or other relevant format with one PDF file per report or section of the EA in a sequential order – please ensure each PDF file is less than 2Mb in size). |