

WOOLF
ASSOCIATES
SOLICITORS

Our Ref: BSW 5186/07
Your Ref:

28 August 2008

Mr M File
The Director
Strategic Sites
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Mr File

GALES HOLDINGS PTY LTD and GALES-KINGSCLIFF PTY LTD
SEPP MAJOR PROJECTS
CONSIDERATION OF GALES LAND AS STATE SIGNIFICANT SITE
TWEED SHIRE RETAIL STRATEGY AND LEP

We act for Gales Holdings Pty Ltd and Gales-Kingscliff Pty Ltd (our client). As you know, our clients hold most of the uncommitted urban land at Kingscliff, Chinderah and Cudgen.

We write to you following notification in the Gazette on 14 December 2007 of a proposal for the Minister to consider adding our client's Kingscliff land to Schedule 3 of the Major Projects SEPP.

We are instructed to request that the investigation in relation to the above be carried out by a consultant completely independent of Tweed Shire Council. The reasons for this request are set out below. Our client is prepared to share the cost of the consultant with the department and the Council on the proviso that our client approves the consultant.

The issues addressed below apply both to the Minister's consideration of the land for Part 3A inclusion and to the appropriate development controls including any proposed rezoning of the land.

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GAZETTAL OF NOTICE – NO PRIOR ADVICE TO GALES

On 14 December 2007 the Minister notified a proposal that our clients' land be added to Schedule 3 of the Major Projects SEPP as State significant land.

Tweed Shire Council gave our clients no notice whatsoever of its intention to do so despite this being contrary to Council's previous proposal to Gales. This is typical of Council's cavalier attitude to Gales when its interests are at stake. It is incapable of co-operation, even where the interests of Council and Gales coincide.

TWEED COUNCIL'S UNWARRANTED AND UNLAWFUL ACTIONS AGAINST GALES

Tweed Shire Council has repeatedly acted unlawfully and unfairly against Gales. To protect our clients' rights, it has been necessary to resort to expensive Court proceedings against Council.

It is not possible to ignore the weight of the succession of cases at all levels of the judicial hierarchy – Land and Environment Court, Administrative Decisions Tribunal, Supreme Court, Court of Appeal and High Court – which quite independently of any view held by Gales, demonstrate Council's failure to properly deal with Gales' land in the interests of good planning, development and conservation.

REQUIRED COURT INTERVENTION SHOWS COUNCIL'S ACTIONS UNMERITORIOUS AND UNLAWFUL

Council has failed to maintain the standards of conduct required by corporate governance principles and has acted with partiality against Gales contrary to its statutory charter (s8, Local Government Act 1993). It suffers from ineradicable bias against Gales. A few examples will suffice to make good this serious allegation.

The Court of Appeal¹ set aside the rezoning of Council's former Sewerage Treatment Plant site (STP), which Gales had purchased which consolidated its extensive holdings at Kingscliff. The basis of its finding was that the Council had failed to consider a key study in its possession relating to retail strategy when it was determining the rezoning recommendation to the Minister. It was no mistake that the retail study favoured retail development on Gales' land. Council officers deliberately suppressed the report, thereby misleading the Council as a collegiate body and the public. This conduct caused the whole rezoning to go awry. The point is, however, that on any view of the matter Council's conduct was gratuitous and outrageous.

The Council withheld documents showing that it had suppressed the retail study in breach of the Freedom of Information Act and was found to have acted wrongly by the Administrative Decisions Tribunal. The Tribunal disbelieved the evidence of a senior Council officer². The Tribunal also considered that Council's conduct should attract a

¹ Gales Holdings Pty Ltd v Minister for Planning and Tweed Shire Council (2006) 146 LGERA 450

² Gales Holdings Pty Ltd v Tweed Shire Council (2005) NSW ADT 168

partial costs order only given in the case of unreasonable conduct leading to unnecessary costs being incurred³.

The Council failed to allow cattle grazing on part of the former STP land claiming that such would be unlawful and was found by the Land and Environment Court to have been wrong⁴. The Court found that Council had misunderstood its LEP. After its loss, the Council, without prior notice to Gales or the Court, sought conditions which were premised on vegetation on the land being an endangered ecological community. This issue had not been raised when the matter was before Council nor when the substantive issues were before the Court. The Court was highly critical of Council's conduct and refused to deal with it. The Court has now rejected the so-called scientific justification for this claim in later litigation (see below).

Council has held up the development of the uncommitted urban land at Kingscliff on the spurious claim that the land contained endangered ecological communities. This claim was based on flawed ecological evidence which the Land and Environment Court has now rejected.

COURT REJECTS COUNCIL'S VIEWS OF ECOLOGICAL VALUES

Our client has spent over \$1 m in ecological studies and investigations of its land.⁵ It has engaged independent and highly regarded scientists to conduct and peer review those studies. Council has completely ignored the conclusions of those ecologists, and has relied on poor science and the Tweed Vegetation Management Study/Strategy to make planning decisions. Our client's consultants had previously found serious flaws in the Study/Strategy⁶. However, no doubt the Strategy will be put forward by Council as a credible study, on which you can base confident decisions. Whatever confidence might be placed in its mapping and conclusions on other land, it is now beyond doubt that it reaches deeply flawed conclusions about the Gales land.

The major author of the study is Dr Kingston, now Council's ecologist. Dr Kingston believed that significant areas of vegetation on Gales land are endangered ecological communities. This view was rejected by other independent scientists, Mr Greg Elks and Dr Andrew Smith, and has now been comprehensively rejected by Preston CJ in *Gales Holdings Pty Ltd v Tweed Shire Council* (2008) NSWLEC 209. That decision concerned Gales' southern Kingscliff land. Preston CJ found:

"The vegetation on the land has been extensively examined by many persons over the years. Gales ecological consultants have mapped the vegetation communities occurring on the site. A copy of the vegetation map is annexed to these reasons for judgement."[56]

³ *Gales Holdings Pty Ltd v Tweed Shire council* (2006) (No. 2) NSWADT 41

⁴ *Gales Holdings Pty Ltd v Tweed Shire Council* (2007) NSWLEC 683

⁵ Documents produced to Gales under Freedom of Information applications show that in contrast to Gales, the NPWS has carried out no survey work or analysis of Gales lands. The only study by Council that is remotely comparable to Gales' consultants work is the Tweed Vegetation Study, a deeply flawed document.

⁶ Gales submission March 2005 to Local Environmental Plan (Amendment No. 21).

The Judge rejected Council's contentions that the relevant vegetation communities meet the descriptions in the final determinations of the Scientific Committee as endangered ecological communities [61], and then found that:

"In my opinion, the evidence of Mr Elks and Dr Smith is to be preferred to that of Dr Kingston..." [123]

The Judge concluded:

"The result is that none of the vegetation communities that will be affected by filling of the site and that are claimed by the Council to be endangered ecological communities can be properly so characterised." [133]

This conclusion applies equally to what is left of the vegetation communities on the northern lands of Gales, which include the former STP site and the industrial and residential zoned land adjoining Ozone Street, near the Chinderah bypass.

GALES, NOT COUNCIL, TAKES ITS ENVIRONMENTAL RESPONSIBILITIES SERIOUSLY

Preston CJ's decision confirms that Gales takes its environmental responsibilities seriously:

- Gales has offered a management plan for an area south of Turnock Street that is the habitat for the Mitchell Rainforest Snail;
- Gales is retaining a significant area north of Turnock Street for Wallum Froglet habitat and constructing water flow and quality systems for the dual purpose of conservation of the Wallum Froglet habitat and water quality purposes. Gales is also retaining a significant area south of Turnock Street for Wallum Froglet habitat.

On the other hand:

- Council built its library and public facilities in prime Mitchell Rainforest Snail habitat;
- Council constructed Turnock Street without adequate drainage leading to wetting up of Mitchell Rainforest Snail habitat and the local extinction of the snail – a nationally endangered species;
- Council allowed extra water to be directed to its Quigan Street culverts, which inundated the major remaining Mitchell Rainforest Snail habitat in which an extraordinary large number of dead snail shells was noted by all parties. At the time Gales was not aware of the changes that Council had allowed;
- In none of the above cases has Council ever taken any action whatsoever to mitigate the damage to the species and critical habitat that it had caused.

The Minister and the Department need not rely on the views of Gales. We refer you to the judgment of Preston CJ where his Honour, referring to the construction of a new 3m x 2m culvert under Turnock Street which Gales has proposed, said :

"The box culvert would perform the drainage and fauna underpass function originally required by development consent 97/107 and the associated Part 5 approval issued for the construction of Turnock Street, which required the construction of box culverts, but which were not constructed by the Council."[9]

Consistent with Gales consultants' views and contrary to the assertions by the Council over a lengthy period, his Honour found:

" ... Undoubtedly the construction of Turnock Street and various other drainage measures have altered the hydrologic regime so as to make the land wetter in parts than it would otherwise have been ... "[102]

Council's failure to properly engineer and maintain its drains off Quigan Street has inundated and eroded the habitat of the Mitchell Rainforest Snail south of Turnock Street. Council first referred questions in relation to the MRS on Gales land to Dr John Stanistic of the Queensland Museum. Dr Stanistic is an Australian expert on the Snail. Thereafter our client asked Dr Stanistic to prepare reports to assist it in managing the population. Each of those reports has referred to the poor drainage as a threatening process. Despite Dr Stanistic's reports and although not having any expert of equivalent standing to Dr Stanistic, Council has steadfastly refused to acknowledge its responsibilities or to take any action in relation to the stormwater flow.

In the past the Department and the Minister have taken heed of Council's views and not listened to Gales. Gales requests to the Department and Minister on several occasions have been referred back to the Council.

Yet on each occasion that an independent arbiter has adjudicated the conflicts between Gales and the Council on the merits, Gales' position has been upheld.

Gales requests a fresh approach by the Minister.

We enclose:

1. Copy Gales Holdings Pty Ltd v Tweed Shire Council (2008) NSWLEC 209;
2. Report "Vegetation on Gales Holdings West Kingscliff" by Greg Elks and Andrew Smith, Austeco 2004 (updated 2007);
3. Report November 2007 by Dr Andrew Smith "Vegetation on the STP Site Gales Holdings", which includes field work by the leading soil scientist, Dr Pam Hazelton.

GALES SEEKS A CONSULTANT INDEPENDENT OF COUNCIL INFLUENCE

The Department has informed Gales that a study for the Minister's consideration is to be undertaken by an independent consultant and that the Council, having requested the Minister to include the Gales land as State significant, should pay the cost of the consultant. We understand that the Council to date has refused to do so.

Apart from vegetation, a key issue is the proper zoning of the former STP land and the Gales land immediately to the north of that land, identified for Employment Generating

Land in the North Coast Strategy. Our client considers that such issue would, in the interests of Tweed Shire, benefit from a truly independent assessment of the need for and planning aspects for development of our client's land. When the Council received a report from its consultant indicating that the land was the only site apparent for a new district centre, it informed the consultant that 15ha was developable (the site is 50ha and virtually all can be developed). When the altered report indicated the land was suitable for major retail use, the Council buried the reports and then, when it was forced to disclose the reports, it procured another report and dictated its conclusions (its author somewhat forlornly stated that it merely reflected the Council's views).

Our client is concerned that any consideration of planning for Tweed Shire properly addresses our client's Chinderah site, identified in a number of studies as the suitable site for a district centre with large scale retail.⁷

In the interests of independence, our client is prepared to share the cost of such a study with Council and the Department on the proviso that our client should, together with Council and the Department, approve the appointment and provide information for the study.

GALES SEEKS FRESH VIEW OF REZONINGS AND APPROPRIATE DEVELOPMENT CONTROLS

Once again, it is imperative that an independent consultant be engaged, and Gales will meet part of the cost of doing so on the same proviso.

As the Department is aware, the Minister's rezoning of the former STP land was unlawful because of Council's wrongful conduct. At the time, the Council persuaded the Minister over Gales' objections that the rezoning was urgent but he agreed with the Department's recommendation that the matter could be looked at afresh at a later time. Our client now asks that you review the proposed rezoning and the use of the STP land in accordance with the Minister's promise.

In addition we are instructed there is considerable community concern that retail and residential rezoning on nearby land zoned Agricultural Protection and identified for Green Space in the North Coast Strategy being land previously owned by former Mayor Beck's mother at Cudgen, is being discussed and that the zoning and studies relating to Gales land may have been manipulated for the benefit of that land. The Honourable Mr Kerry Hickey, the Minister for Local Government, raised concerns in parliament in relation to this land in 2005.

We apologise for the length of this letter but you will appreciate that there is really no satisfactory solution to the impasse which our client has reached with Council other than to appeal (in the non-legal sense of the word) to the Minister.

Yours faithfully

⁷ Kingscliff Centre Study, Patrick Partners, September 2001; Core Economics Reports October 2003 and September 2005.

c.c. The Hon Frank Sartor, Minister for Planning
The Hon Paul Lynch, Minister for Local Government
Director-General, Department of Planning
Director General, Department of Local Government

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ASSOCIATES
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Our Ref: BSW 5186/07
Your Ref:

28 August 2008

The Honourable Frank Sartor MP,
Minister for Planning
Level 34 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

GALES HOLDINGS PTY LTD
SEPP MAJOR PROJECTS
CONSIDERATION OF GALES LAND AS STATE SIGNIFICANT SITE
TWEED SHIRE RETAIL STRATEGY AND LEP

We act for Gales Holdings Pty Ltd and Gales-Kingscliff Pty Ltd.

We have written on 28 August 2008 to the Director, Strategic Sites, Department of Planning about the process for consideration of Gales land at Kingscliff for addition to the list of State significant sites and the future role, if any, of Tweed Shire Council in that process.

You will note that our clients have made a generous offer to fund studies to assist you, on condition that they are conducted by experts who are independent of the Council (and, of course, our clients).

We enclose a copy of that letter for your consideration.

Yours faithfully

encs

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Our Ref: BSW 5186/07
Your Ref:

28 August 2008

The Honourable Paul Lynch MP,
Minister for Local Government
Level 32 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

GALES HOLDINGS PTY LTD
SEPP MAJOR PROJECTS
CONSIDERATION OF GALES LAND AS STATE SIGNIFICANT SITE
TWEED SHIRE RETAIL STRATEGY AND LEP

We act for Gales Holdings Pty Ltd and Gales-Kingscliff Pty Ltd.

Gales owns most of the undeveloped land with urban capability at Kingscliff, Chinderah and Cudgen. State policy supports the urbanisation of those lands, but for some years there has been a major conflict, which has been played out in the courts, between the Council and our clients concerning the use of those lands. Gales owns sites of high conservation value, which has been established by Gales' own studies, and which Gales has undertaken to protect by legally enforceable covenants.

We have written on 28 August 2008 to the Director, Strategic Sites, Department of Planning about whether the Minister for Planning should list the Gales land at Kingscliff as a State significant site. Tweed Shire Council approached the Minister last year to do so. Our letter raises serious questions concerning the corporate governance of Council and its partiality and bias when dealing with Gales.

You will note that our concern arises from a succession of court cases where Council has been found to be derelict in its duty, or to have wrongly applied planning or environmental principles or evidence to the detriment of Gales.

We enclose a copy of our letter for your consideration.

Yours faithfully

enc

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Our Ref: BSW 5186/07
Your Ref:

28 August 2008

Mr S Haddad
Director-General
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Mr Haddad

GALES HOLDINGS PTY LTD
SEPP MAJOR PROJECTS
CONSIDERATION OF GALES LAND AS STATE SIGNIFICANT SITE
TWEED SHIRE RETAIL STRATEGY AND LEP

We act for Gales Holdings Pty Ltd and Gales-Kingscliff Pty Ltd.

We enclose a copy of our letters of 28 August 2008 to the Honourable Frank Sartor MP, Minister for Planning and the Director, Strategic Sites, Department of Planning.

The letters raise serious issues in relation to planning matters and we enclose a copy of the letters for your consideration and attention.

Yours faithfully

encs

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Our Ref: BSW 5186/07
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28 August 2008

Mr G Payne
The Director-General
Department of Local Government
Locked Bag 3015
NOWRA NSW 2541

Dear Mr Payne

GALES HOLDINGS PTY LTD
SEPP MAJOR PROJECTS
CONSIDERATION OF GALES LAND AS STATE SIGNIFICANT SITE
TWEED SHIRE RETAIL STRATEGY AND LEP

We act for Gales Holdings Pty Ltd and Gales-Kingscliff Pty Ltd.

We enclose a copy of letters 28 August 2008 which we have forwarded to the Director, Strategic Sites, Department of Planning and the Minister for Local Government.

Our letters raise serious questions concerning the corporate governance of Tweed Shire Council and we enclose a copy of our letters for your consideration and attention.

Yours faithfully

encls

SUBMISSION TO TWEED SHIRE COUNCIL

**Draft Tweed Local Environmental Plan 2000,
Amendment No 21-Vegetation Management**

**Objection to Proposed Environmental Protection Zones
At West Kingscliff**

Gales Holdings Pty Ltd

March 2005

This submission incorporates contributions by:

**Dr Andrew Smith
Mr Greg Elks
Mr Keith Kendall
Dr John Stanisic
Dr Stephen Segal
Mr Darren Gibson (ed.)**

EXECUTIVE SUMMARY

Draft Tweed Local Environmental Plan 2000, Amendment No 21-Vegetation Management, proposes to impose Environmental Protection Zones on parts of Gales Holdings. Gales Holdings objects to the draft Local Environmental Plan as the proposals are in significant respects, based on inadequate, dated, and inaccurate studies, and accordingly Gales Holdings has no confidence in the reports presented by Council's consultants.

Gales Holdings has undertaken extensive and detailed investigations over a period of four (4) years and has proposed a plan for conservation of important vegetation on the land. Gales Holdings consultants discovered the critically endangered Mitchell's Rainforest Snail and have found that the area in which it remains is increasingly under threat from "wetting up" or water logging caused by stormwater discharges from developments external to the Gales Holdings property.

Gales Holdings has developed a plan to control the increasing impact on the existing habitat, and its proposal will lead to the protection of high conservation value vegetation and the beneficial restoration, enhancement and extension of fauna habitat.

The Gales Holdings proposal is consistent with definitions, procedures and objectives outlined in the proposed Draft Tweed Vegetation Management Plan.

1.0 INTRODUCTION

Draft Tweed Local Environmental Plan (LEP) 2000, Amendment No 21-Vegetation Management proposes to impose Environmental Protection Zones on parts of the Gales Holdings property as illustrated in Figure 1A. (areas 1-6).

The proposed zones are, in part, inconsistent with Gales Holdings proposed environmental protection and rehabilitation plan for this area (refer Figure 1B).

Gales Holdings has undertaken extensive and detailed investigations of the vegetation on its land over a period of four (4) years.

Council's consultants have presented reports which, in fundamental respects, contradict the facts on the ground eg. the presence of a forest which had been cleared by Council.

There are serious concerns over the conclusions reached by the Council based on fundamentally inaccurate reports by Council's consultants with respect to the conservation zones proposed for the Gales Holdings property.

Gales Holdings has sought the collective views of its expert environmental and ecological consultants in relation to the draft LEP and the recommendations of Council's consultants, the findings of which are presented in this submission.

2.0 CONSISTENCY WITH DRAFT TWEED VEGETATION MANAGEMENT PLAN

Gales Holdings proposal is consistent with definitions, procedures and objectives outlined in the proposed Draft Tweed Vegetation Management Plan.

Gales Holdings proposes to restore and enhance some areas of degraded native vegetation in order to restore wildlife corridor connections and to improve habitat area and suitability for the endangered Mitchell's Rainforest Snail and other species of threatened flora and fauna (see reports by Austeco and Idyll Spaces 2004, Stanistic 2004, Austeco 2004). In return providing these rehabilitation works Gales Holdings is seeking approval to clear some areas of degraded and regrowth vegetation with little or no conservation value.

Gales proposal is consistent with Aim 2 of the draft Tweed Vegetation Management Strategy of Tweed Shire (volume 1) which is to:

“encourage and promote rehabilitation and management of native vegetation and wildlife habitat in Tweed Shire.”

Gales Holdings proposal is also consistent with proposed Property Rights Instruments approach to protection and restoration of high value habitat on Gales Holdings advocated in section 4.3 of the Draft Tweed Vegetation Management Plan 2004 (volume 1). This procedure involves provision of rezoning approvals, development approvals or other concession over and above what might normally be accepted, by Council in exchange for environmental conservation of a given area on a contiguous holding.

Gales Holdings proposal is also consistent with Aim 3 of the draft Tweed Vegetation Management Strategy of Tweed Shire (volume 1) which is to:

“promote the protection and management of soil and water resources”

A consultant hydrologist commissioned by Gales Holdings has determined that vegetation south of the drainage canal in area 3 (Figure 1A) is wetting up due to uncontrolled storm water runoff from urban developments outside Gales Holdings. In the absence of mitigation this process is likely to cause degradation of native vegetation and loss of important Mitchell's Snail habitat (as appears to have occurred on land north of Turnock Street after ponding and impeded drainage following construction of the road by Council). As part of its habitat restoration works, Gales Holdings has proposed to relocate the drain in Area 3 (figure 1A) and to regulate water flows to prevent the risk of further wetting up and to improve water quality (Webb, 2004).

Gales Holdings proposal is consistent with the “Property Rights Instruments” approach to protection and restoration of high value habitat on Gales Holdings as advocated in section 4.3 of Tweed Vegetation Management Plan 2004 (volume 1). In recent years Tweed Shire Council has negotiated trade-offs with developers as part of land use rezoning and development applications whereby areas of land identified with significant habitat have been zoned environmental protection and or dedicated to Council (section 4.3 Draft Tweed Vegetation Management Plan 2004 (volume 1)).

In the case of Gales Holdings, however, Council has sought to rezone some land on Gales Holdings with little or no conservation value without offering any rezoning or development tradeoffs. This approach is in marked contrast to Councils stated practice in other areas and developments (Koala Beach Estate, Black Rocks Estate and Pottsville Waters Estate (section 4.3 Draft Tweed Vegetation Management Plan 2004 (volume 1))). Furthermore, Council appears to have ignored the findings and advice of comprehensive and objective studies (Planit 2002, Elks and Smith 2004, Kendall and Kendall 2004, Stanisic 2004, Webb 2004) by highly qualified and independent consultants commissioned by Gales Holdings, and has based its decisions on outdated, superficial, and/or questionable assessments (refer section 3.0 & section 4.0) and the unsubstantiated personal opinions of Government employees.

We note that the draft Tweed Vegetation Management Plan (section 4. 5.1.2, p33) states that “*rezonings on environmental grounds are controversial and as a consequence are rarely used*”. This has not been the experience of Gales Holdings, where “back zoning” is being imposed without adequate consultation or justification.

We also note that the NSW Regional Forest Agreement for upper NSW recognises the need for protection of some native vegetation on private land to contribute to regional conservation targets but it explicitly states that conservation on private land is to be voluntary. There is nothing voluntary about the process of rezoning areas on Gales Holdings land to environmental protection.

3.0 LIMITATIONS OF SURVEYS BY PETER PARKER ENVIRONMENTAL CONSULTANTS FOR TWEED COUNCIL

Gales Holdings has no confidence in surveys and assessment undertaken by Peter Parker for Tweed Shire Council as a basis for determining the location of environmental protection zones for the following reasons:

1. Questionable records of the wallum sedge frog.

Parker (2003) claims to have heard hundreds of calls of the threatened Wallum Sedge Frog on Gales Holdings north of Turnock Street in May 2003 and persists in maintaining the accuracy of this claim (Parker 2005). Scientists engaged by Gales Holdings and others have undertaken extensive surveys for frogs in the general area north of Turnock Street (Woodward Clyde, 1996; James Warren and Associates, 1999; Planit, 2003; Kendall and Kendall 2004) and all have failed to detect a single definitive call of this species. Furthermore, habitat in the area reported by Parker to support this species is generally degraded and uncharacteristic of the habitat of this species. The call of the wallum sedge frog is well known to be very similar to and easily confused with the call of a common frog (*Littoria fallax*). For this reason, it is not appropriate to assume that wallum sedge frogs are present unless individuals are captured and identified in the hand. It is our understanding that Parker did not capture any individuals of the wallum sedge frog. Furthermore, Kendall and Kendall (2004) found *Littoria fallax* to be present and calling in areas where Parker reported calls of the wallum sedge frog, yet Parker (2003) failed to report any calls of *Littoria fallax* at this site. This leads us to conclude that Parker's reported identification of the wallum sedge frog is most likely an error caused by confusion with the common and vocal *Littoria fallax*.

2. Advocacy for Council.

Following Parkers (2003) reported identification of the wallum sedge frog, an agent for Gales Holdings contacted Mr. Parker and sought to commission him to undertake further frog surveys on behalf of Gales Holdings including the monitoring of his reported wallum sedge frog population. Mr. Parker declined to undertake surveys for Gales Holdings on the grounds that he was working for Council and would have a conflict of interest. This action by Mr. Parker is a clear indication that he is acting as a paid advocate for Council contrary to the requirements of the Land and Environment Court which requires that experts at all times provide independent and objective advice.

3. Entry to Gales Holdings without approval.

Peter Parker has submitted a number of reports to Council, which indicate that he has entered and undertaken work on Gales Holdings private property without approval. Peter Parker has at no time sought permission from Gales Holdings to enter its land and this has prevented Gales Holdings from requiring that a second independent scientist appointed by Gales Holdings, be present during his surveys, so that any identifications made by Mr. Parker can be confirmed and validated.

Given the above concerns, Gales Holdings requests that Council disregard all submissions and reports made by Mr. Parker concerning proposed re-zonings and developments of Gales Holdings.

4.0 LIMITATIONS AND RELIABILITY OF VEGETATION MAPPING BY ECOGRAPH

Gales Holdings has undertaken comprehensive vegetation survey mapping and classification studies on its lands at Kingscliff. These surveys show that mapping, classification and impact assessment by Ecograph (2001), which was used as the basis for the draft Tweed Vegetation Management Plan is dated and inaccurate for the reasons outlined in more detail below.

1. Adequacy of API

Ecograph (2001) did not undertake any API, quantitative survey or modelling for their vegetation classification. It relied largely on existing vegetation mapping by Murray and James (referenced as 1998 in preparation) with some modification based on limited site inspection. No report is available which describes the vegetation survey and classification methods used by Murray & James; consequently the rigor and accuracy of this work cannot be determined by peer review and critical appraisal. A report referred to in Ecograph (2001) as Murray and James 1998 (in preparation) has apparently not been completed (Mark Kingston pers. comm.).

The age of the aerial photography used by Murray and James is not clear. Appendix 3 in Ecograph (2001), states that the Murray and James maps were based on aerial photography and ground truthing in 1995, but text in the report gives a date of 1992. Ecograph 2001 state that Murray and James mapping (1992) was incorporated into the Tweed Vegetation Management Plan database (Kingston et al 1999), which is used by the Tweed Shire Council for local environment planning. This mapping is clearly dated and should not be used as a basis for local scale planning without validation.

Ecograph (2001) allocated all vegetation remnants and communities within remnants a unique polygon identity number indicating vegetation type, structure, condition and abundance of camphor laurel. Ecograph (March 2001) state that this mapping was field checked and confirmed or amended where necessary on 21 March 2001.

2. Reliability of Ecograph mapping and question of ground truthing.

The reliability of Ecograph mapping is highlighted by Ecograph (March 2001) mapping of polygon 8746 on Gales Holdings, which is shown as a large remnant with continuous cover. The June 2001 aerial photograph of Kingscliff shows this area to have been completely cleared except for a small strip along the road. Tweed Shire Council cleared the area in 1999 in preparation for its use as a Turf Farm. It appears that the area was not ground truthed as claimed in Appendix 3 of Ecograph (2001).

Ecograph claims to have ground truthed the area in 1 day, but this is inadequate for Gales Holdings land, which is over 100ha and comprises areas of considerable diversity.

3. Vegetation Classification and Subsequent Changes

Ecograph (March 2001), recognised 7 broad vegetation communities on Gales Holdings, distributed across 21 distinct mapped polygons. The vegetation communities recognised are broadly consistent with Murray and James mapping for Tweed Shire, but the classification of one polygon (9805) appears to have been changed from Acacia/Glochidion to Littoral Rainforest by Ecograph (Ecograph 2001, Appendix 3). The reasons for this change are not given and the change is not scientifically justified. This change by Ecograph has major planning implications because littoral rainforest is an endangered ecological community, while Acacia/Glochidion is not. Four new small vegetation polygons (2817, 2827, 8739, 8741) not recognised by Murray and James appears to have been added (Ecograph 2001, Appendix 3). These polygons are too small and isolated to have any native vegetation of conservation value and should not have been considered.

4. Limitations of Ecograph Classification and Mapping

The Ecograph (2001) vegetation survey, classification and mapping methods are summarized and compared with recommended (CRA NPWS Biodiversity survey) procedures and standards in Table 1 and discussed in more detail in the following sections.

Table 1: Summary comparison of vegetation classification and mapping by Ecograph (2001) and Austeco (2004) & Planit (2002).

Vegetation Classification & Mapping Steps	Ecograph 2001	Austeco & Planit 2004
1 API	No, relied on Murray and James	mapped the current boundaries of vegetation remnants using GIS
2 Ground truth	Yes, but limited to one day which is inadequate for complete coverage of over 100ha	Extensive, over 24 months, sufficient for complete coverage
3 Plot survey	No	Yes
4 Statistical classification	No, subjective/descriptive classification	Yes
5 Description of Associations	Yes, limited floristic, structural and condition comments for individual mapped polygons. Descriptions based on Tweed Veg. Plan & not Gales Holdings, no separation of understorey and overstorey	Yes, comprehensive description of floristics with comments on structure & condition.
6 Mapping	No, relied on Murray and James unpublished which is out of date and unverified, except in Torracc land where ground mapped.	Yes
7 Standardisation	Yes, compared with Murray and James and CRA types.	Yes compared with Murray & James types, which can be related to CRA types.

Having regard to the above, the Ecograph (March 2001) report should not be considered a vegetation classification and mapping study, but a desk top review of conservation status based largely on the pre-existing Murray and James API, which is now out of date. The period of one day allocated for field checking over a property the size of Gales Holdings (over 100ha), is inadequate for mapping and for describing floristics and structure and identifying any changes that have occurred over the past decade. There is no reference in the Ecograph reports to vegetation plot surveys to confirm species lists or quantitative structural data to provide a systematic basis for assessing condition and checking vegetation classification. Planit (2001) has undertaken extensive ground truthing and Austeco (2004) has undertaken random stratified plot based surveys and objective numerical classification. The method of vegetation classification and mapping used by Ecograph can be considered to lack statistical and scientific rigor and is open to challenge and dispute. Vegetation mapping by Austeco (2004) and Planit (2002) should be used to define any environmental protection zone boundaries.

5. Mapping Differences

Ecograph (2001), Planit (2002) and Austeco (2004) have produced distinctly different vegetation cover maps for Gales Holdings. Planit notes (p35) that vegetation boundaries on Gales Holdings have changed since the Murray and James (1992) mapping and that vegetation condition has declined from integral (largely intact) to regenerating (substantially modified) in some areas. Ecograph Mapping is based on Murray and James and has been shown to be wrong in some areas (eg polygon 8746 and polygon 2830). Accurate boundary mapping is essential because it affects the size (area) and hence conservation status of small fragmented remnants and the options for location of future developments.

6. Conservation Status Assessment by Ecograph

Ecograph have proposed a system for assessing the conservation status of vegetation, then ignored it. It has mapped remnants into a series of numbered polygons and each polygon was assigned an ecological status using a complex system including the following criteria:

1. CRA regional conservation status
2. Significant ecosystems
3. Growth stage (old growth)
4. Regional key habitats
5. Regional fauna corridors
6. Remnant diversity
7. Connectivity and isolation
8. Threatened species occurrence
9. Condition

Ecograph provide recommendations for individual polygons based on ecological status and CRA reservation targets. However, the recommendations are not consistent with ecological status and there is a high degree of subjectivity in the way in which recommendations are applied.

Ecograph recommended that a number of polygons in its lowest conservation status category (3) be preserved despite their low or nil conservation status according to the above criteria. It recommends that polygon 8752 be retained due to its good condition and potential to provide a buffer to proposed development. Examination of vegetation in this polygon shows it to be highly degraded and to have no role or capacity to act as a buffer to development. There is no specific proposal to develop adjacent to this remnant. Buffering potential is not a criterion that was listed in Ecograph's conservation status assessment procedure. Buffering potential should be considered at a subsequent (planning and development) stage.

Ecograph recommends retention of polygons 2836 and 8746 despite their state and class 3 status, on the grounds that the vegetation type is inadequately reserved. If one applied this logic consistently in other areas, all mapped vegetation polygons on Gales Holdings would need to be preserved regardless of type and condition and size (including single trees).

7. Conclusion

The Ecograph (March 2001) report should not be considered a vegetation classification and mapping study, but a desk top review of conservation status based largely on the pre-existing Murray and James API, which is now out of date. Council should rely on Austeco (2004) and Planit (2002) as the only comprehensive and reliable vegetation classification and mapping study on Gales Holdings.

5.0 DETAILED COMMENTS BY AREA (refer Figure 1A)

1. Area 1

Gales supports rezoning as trade off for clearing vegetation on the industrial area to west, but would need to have input to details of exact boundary location. (Note: this habitat is potentially suitable for Queensland blossom bats, which have not yet been surveyed for on Gales.)

2. Area 2

This area does not meet any of the criteria for land suitable for inclusion within an environmental protection zone. Clause 29 (c) of the North Coast Regional Environmental Plan 1988 (REP) states that “ *a local environmental plan shall include significant areas of natural vegetation including rainforest and littoral rainforest, wetlands, wildlife habitat, scenic areas and potential wildlife corridors in environmental protection zones.* Environmental protection zoning for Area 2 is not appropriate because:

1. The vegetation is degraded and weed infested due to impeded drainage and increased flooding following construction of the Turnock Street road embankment, and generally not economically restorable (refer Figure 2). This vegetation fits the profile of disturbed and modified terrestrial communities (TVMP vol 3, Appendix 1, section 3.2.7.5.)
2. James Warren (1999), described this community as Blackwood Acacia with low botanical conservation value.
3. There is no evidence that wallum sedge frogs occur in this vegetation, and even if by remote chance they did, the frogs would be in the sedgeland and not in the forest which is the area mapped for re-zoning.
4. No live Mitchell’s Rainforest Snails have been found in this area, the habitat is no longer considered suitable due to degeneration of rainforest components
5. Construction of Turnock Street has isolated vegetation in the north from vegetation in the south that is in better condition, this habitat is further isolated (for the snail) by the man made drain and road.
6. A large part of the area mapped for environment protection is in fact grassland and pasture with low or no conservation value.
7. Part of the vegetation comprises a small fragment of Coast Banksia-Brush Box. This fragment is too small to merit any consideration for conservation.

8. This vegetation remnant is less than 5 hectares, isolated and disturbed, which gives it a low conservation status according to Table 3.5 Criteria for Mapped categories of ecological status, in the Appendices to the Draft Tweed Vegetation Management Strategy.
9. Ecograph assessments of the conservation significance of this area are based on outdated aerial photography that does not take into account recent clearing or degradation resulting from the construction of Turnock Street

3. Area 3

Gales considers that the environment protection zone should apply only to the large remnants of swamp paperbark forests south of the proposed relocated drain, as other areas are derived grassland created by clearing and drainage. Gales proposes to restore a portion of the grasslands to forest in this area to improve linkages between remnants and increase habitat area and continuity for Mitchell's Rainforest Snail. This proposal is conditional on approval to clear vegetation north of Turnock Street and to develop land north of the relocated man-made drain. In the absence of this restoration approval, vegetation south of the drain is likely to continue to degrade due to siltation of the drain and wetting up from storm water runoff and will eventually lose its current threatened flora and fauna and high conservation value.

At present only vegetation mapped as Swamp Paperbark – Melicope and Swamp Paperbark - Sedgeland has high conservation significance in this area. There is no justification for imposing an environmental protection zone of the remaining forest and grassland remnants for the following reasons:

1. Much of the area is grassland which has been created by previous clearing and artificial drainage of the site.
2. The area is polluted and wetting up as a result of storm water runoff from adjacent urban development.
3. The vegetation is fragmented and isolated such that populations of Mitchell's Rainforest Snail are unlikely to be continuous across the site.

It is noted that this is the same area advocated by Council planners for the construction of a shopping centre and transport interchange only two (2) years ago, at which time, the existence and location of the Mitchell's Rainforest Snail was well known to Council. The Council proposal was very similar to that now proposed by Gales Holdings, including relocating the drain, except that Gales Holdings proposes extensive habitat rehabilitation and protection to the south of the drain, which would act as a buffer to the development areas to the north. No such measures were proposed by the Council.

4. Areas 4 & 5

These areas do not fit any of the criteria for environment protection as:

1. They do not form an important part of a local and regional wildlife corridor.
2. They do not support threatened flora populations.
3. They do not provide important habitat for threatened fauna.
4. They are not wetlands.
5. The habitat is artificial comprising regrowth paperbark through previously cleared pasture and has no natural equivalent due to drainage by man made drains.
6. They are small and fragmented and isolated by man made drains and roads.

6.0 FAUNA CORRIDORS

The draft LEP does little to provide corridor linkages with habitat areas external to the Gales Holdings land, in particular to the south around Cudgen Creek.

Planit (2002) proposed this corridor linkage, however the vegetation management plan does not proactively identify possible future corridor linkages.

7.0 CONCLUSION

Gales proposal is consistent with the Draft Tweed Vegetation Management Plan and is a good example of sustainable development that links development approvals with rehabilitation, restoration and protection of high value retained conservation area. It will provide the funding and opportunity for restoration, enhancement and protection of:

- Wildlife corridors and linkages.
- Significant areas of threatened fauna habitat.
- Mitchell's Rainforest Snail habitat.

The studies that have been relied upon as the basis for the Tweed Vegetation Plan Conservation zones are unreliable and not of sufficient scientific rigour.

The investigations completed by Planit (2002) and Austeco (2004) should be relied upon as the only comprehensive and reliable vegetation classification and mapping study for the Gales Holdings property.

8.0 REFERENCES

Austeco and Idyll Spaces (2004); Proposed restoration of Mitchell's Snail habitat part Lot 13 DP 871753, Turnock Street Kingscliff

Austeco (2004); Wallum Froglet habitat on Gales Holdings

Ecograph (1999); Tweed Vegetation Management Plan 1999.

Ecograph (2001); Ecological assessment of remnant vegetation on Gales Holdings, Kingscliff.

James Warren and Associates (1999); Flora and fauna assessment for Lot 10 DP 857710, Lots 11,12 & 13 DP 871753, Lots 26A & 26D DP 10715 and Lot 4 DP10715, near Kingscliff.

Parker.P (2004); An Assessment of Environmental Protection Zones for Land at West Kingscliff, Northern NSW.

Stansic J. (2004); Management of *Thersites mitchellae* (Mitchell's Rainforest Snail) on Gales Holdings, Kingscliff: Relocation of drain on Part Lot 13.

Webb S. N. (2004); Concept drainage strategies , Turnock St, West Kingscliff.

Woodward Clyde (1996); Flora and fauna assessment of a proposed road deviation Turnock Street to Cudgen Road, West Kingscliff.

Figure 1A

Draft Tweed LEP 2000 Amendment No 21
Vegetation Management Proposed environmental
Protection zones on Gales Holdings land

□ Areas 1 to 6

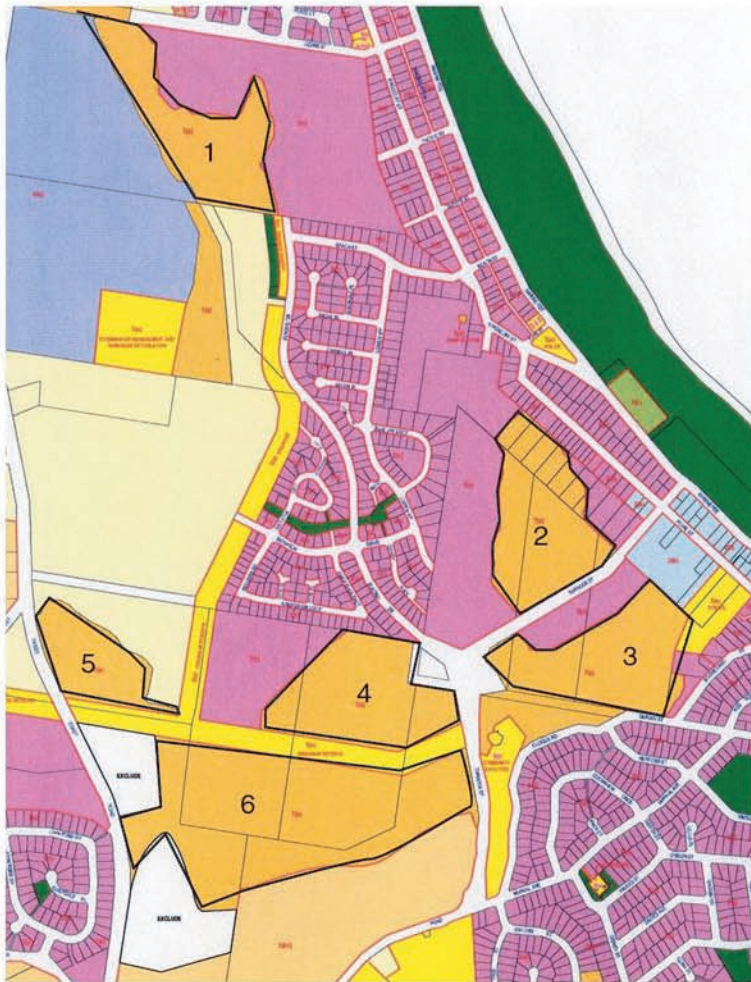


Figure 1B

Vegetation of Gales Holdings West Kingscliff

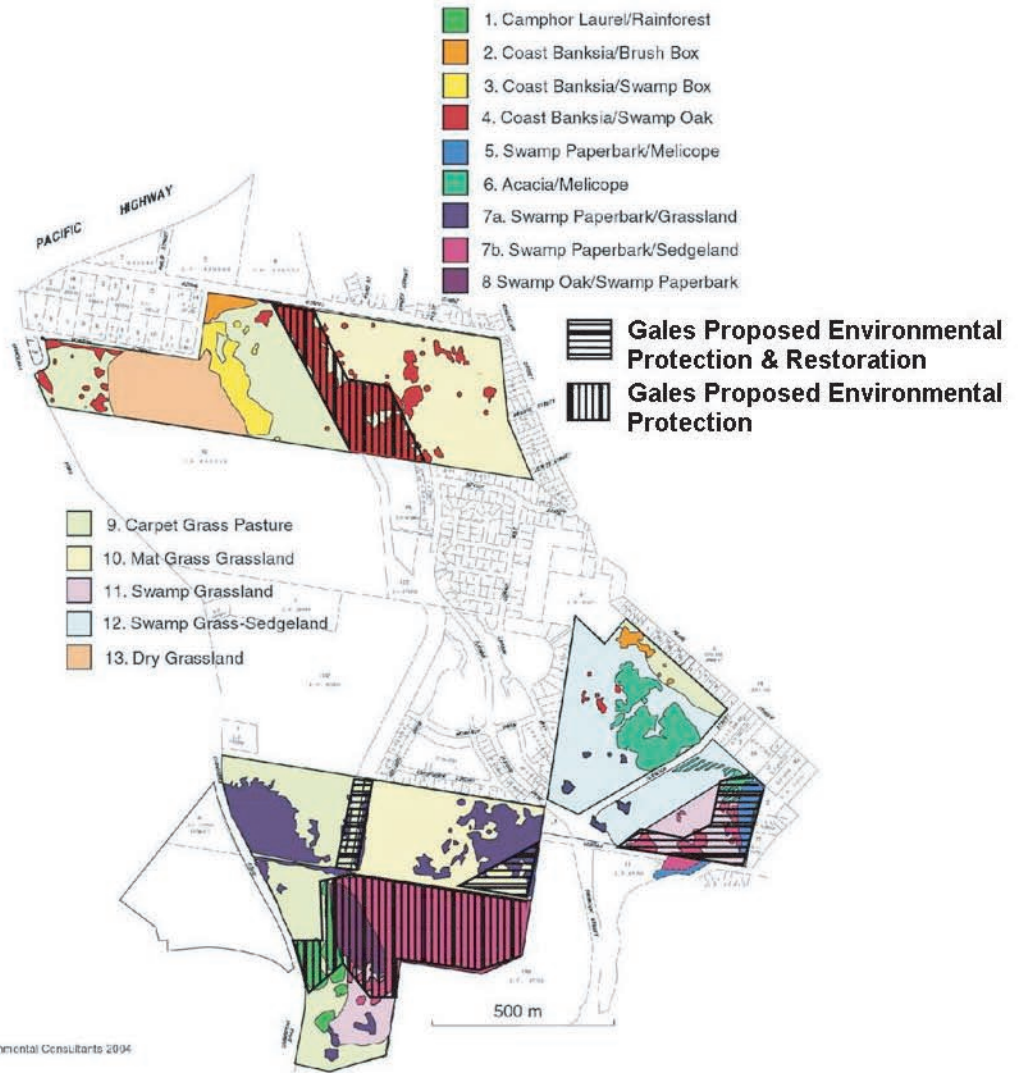


Figure 2

Degraded vegetation north of Turnock St.
Is this a significant vegetation community?





Planning • Impact Assessment • Development Advisors

NSW & QLD

19 January 2009

Our ref: 190109 2006.06

The General Manager
Tweed Shire Council
PO Box 816
Murwillumbah. NSW. 2484

Attention: Vince Connell

Dear Sir,

**Submission with regard to the draft Stage 1 Local Environmental Plan 2008
Gales Holdings**

We write on behalf of our client Gales Holdings PL / Gales Kingscliff PL (Gales) with regard to the meeting of 12 December 2008 in which Gales raised concerns regarding the impacts of the proposed draft Stage 1 Local Environmental Plan (LEP) 2008 on its land holdings. We also refer to correspondence from Council dated 27 November 2008 that included a plan titled "Gales Land Draft Local Environmental Plan 2008".

The purpose of this submission is to outline the reasons why Council should amend the current draft of LEP 2008, as it affects Gales land holdings prior to it being placed on public exhibition.

Background

The following background matters are of relevance in the consideration of this matter:

1. LEP Amendment 21 was a proposed amendment to the LEP 2000 that intended to implement the recommendations of the Tweed Vegetation Management Strategy (TVMS). With the introduction of the "Standard Instrument Order 2006" Council determined to merge LEP Amendment 21 with the draft Stage 1 LEP 2008.
2. Correspondence from the NSW Department of Planning dated 21 May 2008 was received by Woolf Associates Solicitors (solicitor for Gales) that made the following statement:

“Advice I have received from the Tweed Council is that the zones proposed to apply to Gales’ land in Council’s 2008 LEP are NOT those previously recommended in draft amendment 21, but reflect, as closely as possible, those in the current LEP 2000.”

3. Correspondence received from Council dated 27 November 2008 made Gales aware that, contrary to the advice received from the Department of Planning, the Council now intends to implement the outcomes of the TVMS on Gales land, through proposed Environmental Conservation zonings. Attachments to the Council correspondence also illustrate a number of other proposed zoning changes that materially affect the land use rights of Gales.

Impact of Draft Stage 1 LEP 2008

Gales concerns with the proposed draft Stage 1 LEP 2008 predominantly relate to the following three (3) matters:

1. The use of the TVMS to determine the extent of Environmental Conservation zone.

A comparison between the zonings under LEP 2000 and the zonings under draft LEP 2008 illustrates that significant areas of Residential 2c zoned land and deferred land would not be available for development due to the inclusion of additional Environmental Conservation zoned land proposed by draft LEP 2008.

Gales are advised that the basis of the proposed Environmental Conservation Zone is the 2004 TVMS. The TVMS is not an appropriate basis for establishing zoning boundaries because:

- The Report of Dr Smith, Mr. Elks and Mr Kendall (to follow this submission) raises issues in relation to the TVMS which establish that Council cannot now rationally rely on the TVMS.
- The TVMS is a broad scale strategic document that is not sufficiently accurate to base local and site specific planning decisions. At a site specific level it is normal practice to carry out more detailed assessment that is based on ground survey. Gales have had numerous and exhaustive ground studies on its land (particularly Planit 2002 and Smith and Elks 2004 and 2007).

Gales commissioned Dr Andrew Smith to undertake an updated vegetation ground truthing for its land holdings. The TVMS is not consistent with up to date ground truthing.

- The TVMS is based on out of date and incorrect information. There are numerous examples of parts of the site considered ecologically significant in the TVMS that should clearly not have this status. Please refer to the Smith, Elks and Kendall report to follow.

In addition the proposed approach to establishing the environmental conservation zonings in the draft LEP 2008 will not achieve rational town planning outcomes as it lacks a full and balanced consideration of all the issues that affect urban development. Specifically Gales ask that Council consider the following matters:

- The blanket approach to establishing the environmental conservation zone does not take account of, and cannot accommodate flexibility in site planning whereby compensatory revegetation may be used to offset cleared areas. It has always been Gales intent to balance ecological issues in this manner to provide quality planning outcomes.
- The proposed environmental conservation zonings have been applied in a manner that does not consider the significance of the sites for accommodating residential development, and access to existing infrastructure – roads, sewerage, services, proximity to the beach and other amenities.
- The Council has recently completed the Tweed Shire Council Urban Land Release Strategy 2008. This document identifies a number of sites that are zoned for urban purposes as well as puts forward potential future release areas. In considering strategies to accommodate forecast growth for the next 20 years, Council has adopted an approach that relies on currently zoned land and urban consolidation (no further unzoned land will be released). Gales land holdings represents a significant area of land that will be required to accommodate part of the forecast growth. It would be illogical for Council to remove designated residential urban expansion land and apply an environmental conservation zoning in light of the body of evidence against the conservation zones as proposed.

2. The inclusion of the former Sewerage Treatment Plant site in the General Industrial zone.

The draft LEP 2008 proposes to include the former Sewerage Treatment Plant site in the General Industry zone. The site is currently zoned 5a Sewerage Treatment / Turf Farm. Council is aware that the Court of Appeal determined that the earlier LEP amendment proposing an industrial zoning was void.

The circumstances that lead to the decision of the Court have not yet been remedied. Council has commenced the process for the rezoning of the STP land involving the local environmental study by Geolink. Council did not so far as Gales is aware resume the consideration of the matters raised in the local

environmental study toward a rezoning aligned with the terms of the Court of Appeal's decision. The current reliance by Council on LEP Practice Note PN08-002 does not fulfill that function.

Further, the retail "strategy" adopted by the Council in September 2005 was not the subject of a public exhibition and was a series of points resolved by Council and was supported only by a report where the relevant section was subject to direction by Council officers (page 16 of Core Economics Report of September 2005). Given all the antecedent reports including reports by Core Economics in 2003 and 2004 the soundness of the "strategy" is highly questionable. We understand that a review of the "Retail Strategy" is being contemplated which will further investigate matters concerning the need for and location of a district centre.

"LEP Practice Note PN08-002 Zoning for Infrastructure in LEP's" states that surplus public land currently zoned special use should be rezoned to a land use that is compatible with surrounding land use or be rezoned to be consistent with a valid site compatibility certificate. There are a range of zones in addition to industrial that would be considered compatible with the adjoining industrial, rural and environmental protection zonings. Council should not limit the zoning options to a simple reflection of the adjacent industrial zoning.

Council should not seek to impose a zoning that is not suited to the best use of the land and it would be inappropriate to contradict a decision of the Court.

3. The reduction in uses permitted in the General Residential Zone

Council would be aware that in new urban areas, contemporary planning attempts to provide a range of facilities and services in neighborhood centres that are in close proximity to dwellings. The objective being to reduce car reliance and promote pedestrian movement, provide accessibility to basic goods and services, provide employment opportunities close to housing and generally provide more diverse and interesting urban areas.

Gales are uncertain with regard to the range of uses that might be permitted with consent in the proposed General Residential zone under the LEP 2008, having not sighted the draft document. If Council adopt the uses permitted with consent in the "Standard Instrument – Principal Local Environmental Plan" then non residential land use will be limited to:

- Child Care Centres
- Community Facilities
- Neighbourhood shops; and
- Places of Public Worship

The existing 2c Urban Expansion zone under LEP 2000 allows for a significantly greater range of non residential land use. The objectives of the Urban Expansion zone rightly note that the urban expansion areas will

"comprise mainly residential development focused on multi use neighborhood centres". The secondary objectives more specifically state "to allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents".

The General Residential zone is not an appropriate zone to facilitate the development of a master planned community. The size and location of Gales land holdings and the dwelling density that would be anticipated on the land would warrant the inclusion of a range of services and facilities.

As it stands the adoption of the "Standard Instrument – Principal Local Environmental Plan" would restrict Gales ability to achieve the best outcomes for the sites and effectively represents a significant reduction in development potential and planning.

This applies particularly along Turnock Street. Long standing planning, including the Tweed Coast Strategy, has recognized the planning benefit of retail development along Turnock Street.

Gales Specific Request

In respect to the issues raised in this submission, regarding draft LEP 2008, Gales request that Council make the following determinations:

1. Proposed zoning changes relating to the Environmental Conservation zone on Gales land not proceed.
2. The former Sewerage Treatment Plant site (zoned 5a Sewerage Treatment / Turf Farm) be classified as "unzoned land" as an interim measure to allow for proper investigations to be carried out to determine the most appropriate land use and zone.
3. Landuse that is "permitted with consent" in the Residential Expansion 2c zone in LEP 2000 be included in the draft LEP 2008 General Residential R1 zone as land use that is "permitted with consent" or the land be excluded from Stage 1 LEP 2008.

As stated on a number of previous occasions, Gales would welcome the opportunity to work with Council on proper structure planning for its land holdings. It is such a process that should lead any zoning changes to the land. We are strongly of the view that draft LEP 2008 in relation to the above issues should not proceed as it would be an obstacle to proper planning of the Gales land.

Council has stated many times in the past, including passing resolutions, that it would work with Gales. It most recently advised that it would work with Gales and that Gales structure plan is a good basis for planning in Kingscliff - see letter from Mr Rayner dated 5 January 2007 attached.

We request that Council now works with Gales in relation to the zoning of Gales land and to this end that before any zoning changes are implemented Council and Gales formulate a working program.

Please let us have your reply and we request that we be kept informed of any considerations and decisions made by Council working groups in relation to the zoning issues.

Yours faithfully,



Gavin Johnson
Senior Planner

Attachments:

1. Letter from Tweed Shire Council dated 5 January 2007
2. Assessment of Environmental Protection Zones on Gales Land, Smith Elks and Kendall, 19 January 2009 (to follow this letter)



**TWEED
SHIRE
COUNCIL**

Please Quote
Council Ref:

[dltr]

Your Ref No:

For Enquiries
Please Contact: Noel Hodges

Telephone Direct (02) 6670 2423

L01J08

5 January 2007

Gales Holdings Pty Ltd
20 Ginahgulla Road
BELLEVUE HILL NSW 2023

Dear Sir

Re: Concept Plan for the Kingscliff Development Control Plan

Further to fruitful dialogue and correspondence between Council, its Officers and your Consultants, it would seem that the Concept Plan as put forward by yourselves in regards to the future Development Control Plan for the Kingscliff area can have a valuable input into the process of formulation of the future for the Kingscliff/Chinderah area.

Council does not support, as you know, the concept of a district centre and hence it is proposed that your Concept Plan be amended deleting reference to a "district centre" and if you would be agreeable to such an option then it would be seen that the Gales Concept Plan is a good basis to commence the Development Control Plan process and to help formulate sound urban design and planning outcomes for the Kingscliff locality including Gales land holdings.

Yours faithfully

Mike Rayner
GENERAL MANAGER



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